

1969

A History of the Territory of Orleans, 1803-1812. (Parts I and II).

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A HISTORY OF THE TERRITORY OF ORLEANS,
1803-1812. (PARTS I AND II).

Louisiana State University and Agricultural and
Mechanical College, Ph.D., 1969
History, general

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1969

A HISTORY OF THE TERRITORY OF ORLEANS, 1803-1812

PART I

A Dissertation

Submitted to the Graduate Faculty of the
Louisiana State University and
Agricultural and Mechanical College
in partial fulfillment of the
requirements for the degree of
Doctor of Philosophy

in

The Department of History

by

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January, 1969



ACKNOWLEDGMENTS

The author wishes to express special thanks to Dr. John L. Loos, who served as faculty advisor, for his patience and assistance. She also thanks Drs. Robert B. Holtman, Fred B. Kniffen, Burl L. Noggle, Walter C. Richardson, and T. Harry Williams, who served as faculty committee.

The author expresses gratitude to the administration of Northwestern State College of Louisiana for a leave of absence and to Dr. Donald M. Rawson, Head of the History Department. She thanks Miss Katherine Bridges, Louisiana librarian at Northwestern State College, for her aid in research.

She also thanks her parents for their assistance during the preparation of this dissertation.

TABLE OF CONTENTS

	PAGE
ACKNOWLEDGMENTS	ii
ABSTRACT	iv
PART I	
CHAPTER	
I. INTRODUCTION	1
II. ORLEANS: THE LAND AND SETTLEMENTS	9
III. INAUGURATION OF AMERICAN SOVEREIGNTY	25
IV. PROBLEMS OF TRANSITION	59
V. NASCENT TERRITORIAL GOVERNMENT	94
VI. MATURITY OF THE ORLEANS TERRITORY.	139
VII. NEW ORLEANS AND THE TERRITORIAL GOVERNMENT	186
VIII. COMMERCIAL ACTIVITIES.	225
PART II	
IX. AGRICULTURE AND SLAVERY IN ORLEANS	261
X. CULTURE.	290
XI. THE TERRITORIAL MILITIA.	331
XII. DEFENSE AND POTENTIAL HOSTILITIES.	350
XIII. THE BURR MENACE IN THE TERRITORY OF ORLEANS	405
XIV. WEST FLORIDA AND THE TERRITORY OF ORLEANS	437
XV. STATEHOOD FOR THE TERRITORY OF ORLEANS	475
BIBLIOGRAPHY	496
VITA	513

ABSTRACT

With the acquisition of Louisiana in 1803, the United States more than doubled its territory and gained control of the all-important Mississippi River. Early in 1804, the Federal government organized the southern part of the Louisiana Purchase into the Territory of Orleans. The territory existed until April, 1812, when it entered the Union as the State of Louisiana. During those eight years, the United States government directed the political development of Orleans through the first and second stages of territorial government, and protected it from potentially hostile foreign neighbors in Florida and Texas. Already a thriving region economically at the time of its creation, the agriculture and commerce of Orleans continued to prosper, while its culture began to undergo a slow process of Americanization. The territory played a significant role in both the Burr Conspiracy and the West Florida Revolution.

The research for this dissertation was done largely in local and federal archival records, especially the records of the War and State departments in the National Archives. For local affairs, the various records of the City Archives of New Orleans were very important. Major published sources of primary materials were Clarence E.

Carter (ed.), Orleans Territory, 1803-1812 (Volume IX of The Territorial Papers of the United States) and Dunbar Rowland (ed.), Official Letterbooks of W. C. C. Claiborne, 1801-1816.

The history of the Territory of Orleans represents a significant phase in the history of the United States in the early national period as well as of Louisiana. It is a part of the story of American expansionism westward across the continent. It investigates the problems of incorporating a new territory and a sizable alien population into the American nation.

CHAPTER I

INTRODUCTION

One of the most difficult tasks facing the United States at the end of the American Revolution was to provide for the government of the territory outside the original thirteen states. This task fell to the inexperienced and weak Confederation government. It solved this problem through the Ordinance of 1787 which created a system of territorial government providing for a progression from complete federal supervision, to limited self-government, and ultimately to full and equal statehood for the western areas. From 1787 to 1800, the federal government organized four territories--Territory North West of the River Ohio, Territory South West of the River Ohio, Territory of Mississippi, and Territory of Indiana--under the framework of the Ordinance of 1787. The people of all four territories were similar in ethnic composition, culture, and political experience, and possessed an agricultural economy. Most importantly, all four territories were sparsely settled frontier areas which depended heavily upon the federal government for protection and for economic support through patronage.

In 1803 the United States purchased the vast area called Louisiana from France. Following the territorial pattern, in March, 1804, the federal government organized the lower part of the Purchase as the Territory of Orleans. It, however, was not like the earlier territories, or in fact the later ones, culturally, politically, or economically. In many of its features, in fact, Orleans was so different from the earlier territories that the experiences of the federal government in those areas could not be applied there.

One of the most novel features of the Territory of Orleans was its population composed, as it was, of Creoles, Frenchmen, Spaniards, Americans, Negroes, and several other minority groups. It was the first territory in which Americans were numerically in the minority. The Creole society and culture of Louisiana were well developed and in many respects little different from those of France and Spain. Strangely though, the Americans, with their dynamic, opportunistic outlook, did not seriously clash with the Creoles socially or culturally, even though the Americans generally did assume political leadership in the territory, probably because of their greater familiarity with the United States governmental system. Within a few years, marriages between Creoles and Americans became common, and each group made a concerted effort to learn the other's language. That is not to say that the two cultures merged into one, for the Creoles clung tenaciously to their way of living, but a certain accommodation or tolerance permitted both cultures

to exist side by side and even to modify one another to a limited degree. The two most disturbing elements in the diverse population of the territory were the Frenchmen who arrived after 1803, mainly from the West Indies, and retained a strong attachment to their mother country, and those transient Americans, especially rivermen and seamen, who disgusted the genteel Creoles by their rowdy and uncouth conduct. Neither of these groups, however, was numerous or influential enough to disrupt seriously native accommodation to American domination.

The Territory of Orleans was, in some respects, unique in its economy. Most territories, at least in their early years, attracted Americans through the expectation of profits to be realized through trapping and trading with the Indians for furs and peltries. The chief attraction in other territories was their mineral wealth. Orleans Territory lured Americans by the hope of profit to be had not from the usual frontier activities, but from domestic and foreign commerce. When the United States purchased Louisiana it was particularly interested in gaining free access to the Gulf of Mexico for the expanding trade of the interior. The government more than succeeded, for in New Orleans it acquired the major Gulf port with its already well developed commercial facilities. Orleans was the only territory containing a major port at the time of its creation. Merchants, traders, shopkeepers, bankers, agriculturalists and others were heavily dependent upon this facility for their economic

well being. The federal government wisely followed a policy of encouraging trade through New Orleans by rapidly extending its commercial laws over the territory. By thus combining governmental and personal interests, it won the support of the powerful commercial interests of the new territory.

Since New Orleans was already by 1803 an important commercial center and a rather well developed urban area, the Territory of Orleans did not fit the pattern of the typical American territory with a very sparse population settled in a few tiny hamlets and in and near an occasional frontier post. As a nearly century-old city, New Orleans had all the problems of early 19th century cities, such as police and fire protection, internal improvements, and health and sanitation regulation. Present also was the problem of city versus country in the structure and practice of internal politics and government. As in many of the eastern states, the people of the outlying regions developed a feeling that New Orleans, which was the seat of government, had too much political influence, while the thinly populated areas had too little. Although this antagonism did not become serious during the territorial period, its beginnings were clearly visible.

In addition to having an already established commercial economy and urban center, Orleans had a thriving agriculture before becoming American. The banks of the Red and Mississippi rivers for years had produced substantial crops of cotton, and by the late 1790's the lands along the

Mississippi were also yielding sugar. By 1803 many of the planters were already moderately wealthy and continued to buy land and expand their units after that date. Newcomers usually had to seek lands that were less desirable, and often less fertile, in the interior of the territory or along one of the smaller waterways, such as Bayous Lafourche and Teche. For this reason the attraction of free land was not as great as in some of the other territories nor was land speculation as unrestrained. One means of obtaining additional land for white occupation--by treaty from the Indians--was almost non-existent in Orleans. Land contests usually took the form of challenges to some of the post-1800 Spanish grants.

The existence of a staple crop agricultural economy in Orleans Territory meant that there was a great demand for slaves from the beginning. Planters migrating from other Southern states did not bring the institution of slavery with them; they simply swelled the ranks of an already established slave-owning aristocracy. For several years the greatest source of agitation between the federal government and the inhabitants of the new territory was the government's attempts to restrict the interstate slave trade, but by 1805 the government abandoned this policy and the most serious challenge to the continued development of a plantation economy disappeared.

Even in its need for federal protection, Orleans differed from other territories. Nearly all territories demanded

federal forces to protect them against marauding Indians. In Orleans, however, Indians were so few in number, were usually so widely scattered, and held so little of the desirable land that they never posed a serious threat to the territory's peace and safety. The Spaniards, however, were considered to represent an extraordinarily dangerous threat to the security of Orleans, for the territory was actually an American enclave in an otherwise solidly Spanish-held area extending all along the Gulf of Mexico from Florida to Mexico itself. From 1803 to 1812, federal troops continuously guarded the territory's borders against possible Spanish aggression. Although no fighting occurred, the threat of a confrontation remained so real that both Spain and the United States remained constantly on the alert militarily.

The presence of federal troops, territorial officials, and other government personnel significantly bolstered the economy of the Territory of Orleans. Several thousand civilian and military personnel spending their pay contributed heavily to rising prices, especially of food and housing, while governmental needs stimulated such occupations as masonry, lumbering, and construction. Federal judges, justices of the peace, coroners, notary publics, wardens of the port, sheriffs, recorders, treasurers, civil commandants, registrars, and attorneys, formed a hard core of civil servants who had a personal interest in the success of American rule. Since these appointees were both Americans

and Creoles, there was no strict American-Creole division on the issue of territorial government. Contrary to what has been commonly accepted, the Creoles did not seriously or continuously oppose American administration of Orleans; rather, disappointed American office-seekers led the anti-administration faction with the hope of themselves receiving choice political offices, land concessions, or other favors. The Creole leaders, who again contrary to popular belief were accustomed to participation in their government under the Spanish, assumed an active role in the territorial government.

Creole participation and support of the territorial government also resulted in part from the organic act creating the Territory of Orleans. Although following the general lines of the Northwest Ordinance, the organic law of the territory contained important modifications allowing the inhabitants a share in the government. From the beginning, unlike the provisions of the 1787 ordinance, a legislative council existed which, at the suggestion of the President, included both Creoles and Americans. Although some rejected proffered legislative positions, others served on the council and later, under a second territorial act of 1805, in the bicameral legislature. There was no popular election of legislators, or in fact of any officials, until the creation of the House of Representatives under the act of 1805, but this was no different from other territories.

Although the organic act of 1804 actually permitted

more local participation in the government than did the Northwest Ordinance, it was still a source of some dissatisfaction to the native Louisianians, because it did not provide for an elected popular assembly, or representation in Congress, or statehood when the population reached a certain figure. The act of 1805 rectified these defects by providing an elected house of representatives and a Congressional delegate. It also guaranteed statehood when the population should reach 60,000. Had these provisions been included in the first act, there probably would have been little opposition to American control. All in all, the system of territorial government, modified to suit the peculiar conditions and circumstances of the area, did successfully incorporate an alien people with a developed culture and economy into the Union.

CHAPTER II

ORLEANS: THE LAND AND SETTLEMENTS

On December 20, 1803, William Charles Cole Claiborne and James Wilkinson, commissioners of the United States, received possession of Louisiana from Pierre Clement Laussat, Colonial Prefect and Commissioner of the French Republic, in the city hall of New Orleans.¹ With an exchange of proclamations on the part of the respective commissioners, the vast lands and diverse peoples of Louisiana became a part of the United States. The territorial limits of Louisiana as acquired by the United States were ambiguous. The treaty of cession of April 30, 1803, stated only that Louisiana would have the same extent which it had under Spain, and earlier had had as a possession of France.² Definite boundaries had never been established for the province under either of the

¹"Procès Verbal of Reinstallation of the Municipal Body of the Day on Taking Possession of the Colony by the United States," December 20, 1803, Conseil De Ville: Proceedings of Council Meetings, No. 1, Book I (Typescript Copy. City Archives, New Orleans Public Library, New Orleans, Louisiana).

²"Treaty for the Cession of Louisiana," Hunter Miller (ed.), Treaties and Other International Acts of the United States of America (8 vols.; Washington: Government Printing Office, 1931), II, 500.

European nations. From the founding of Biloxi in 1699 until the Treaty of Fontainebleau in 1762 Louisiana belonged to France. During this period, the French government, plagued by countless problems in governing the colony, made no serious attempt to establish boundaries between Louisiana and the English possessions to the east or Spanish lands to the west. By the Treaty of Fontainebleau of November, 1762, France ceded Louisiana west of the Mississippi River and the Isle of Orleans east of that stream to Spain.³ After a delay in taking possession, Spain retained control of Louisiana until October, 1800, when the province was returned to France by the secret Treaty of San Ildefonso. Under Spanish sovereignty, again no specific boundaries were set; however, Spain did add West Florida, which had been transferred to England under the Treaty of Paris of 1763, to her possessions by armed conquest during the American Revolution.⁴ The Treaty of San Ildefonso transferred to France "the Colony or Province of Louisiana, with the same extent it now has in the hands of Spain and that it had when France possessed it. . . ."⁵ Here was the source of the ambiguity of Louisiana's geographical boundaries which was reinforced

³Edwin A. Davis, Louisiana: A Narrative History (2nd ed.; Baton Rouge: Claiborne's Book Store, 1965), 97.

⁴Ibid., 113-18, 120.

⁵E. Wilson Lyon, Louisiana In French Diplomacy, 1759-1804 (Norman: University of Oklahoma Press, 1934), 108.

by the cession of the province to the United States under similar indefinite stipulations. Louisiana had never had definite boundaries and the treaties of 1800 and 1803 simply recognized this fact.

Despite these uncertainties regarding the purchase, the United States government acted quickly to set in motion a temporary government for Louisiana, and a little over three months later, on March 26, 1804, by Congressional enactment, divided the ceded area into two territories--the Louisiana District and the Orleans Territory. According to this act, the portion north of an east-west line from the Mississippi River to the western boundary of the cession at latitude 33 formed the Louisiana District while the lands south of this line constituted a new territory under the name of Orleans.⁶

The Territory of Orleans was much the more important part of the purchase in 1803. It contained most of the people in Louisiana as well as the mouth and lower reaches of the Mississippi River, the main commercial artery of the interior of North America. Although they knew little of the territory at the time of its acquisition, President Jefferson and his associates soon obtained information which gave them

⁶"An Act for the Organization of Orleans Territory and the Louisiana District," Clarence E. Carter (ed.), Orleans Territory, 1803-1812 (Volume IX of Territorial Papers of the United States, Washington: Government Printing Office, 1940), 202-13.

a general description of it.⁷

The population of the territory was about 50,000 in 1803.⁸ The greatest concentration of people and the hub of the territory was New Orleans. The city was already a thriving metropolis of some 8,056 people. Of these, 3,948 were whites, 1,335 free Negroes, and 2,773 slaves.⁹

⁷President Jefferson and his Secretary of State, James Madison, sought information from persons familiar with Louisiana, such as Daniel Clark, American consul at New Orleans, William C. C. Claiborne, Governor of Mississippi Territory, William Dunbar, explorer and scientist, John Pintard, traveler in the region in 1801, Doctor John Sibley, resident of Natchitoches, and other knowledgeable individuals. Daniel Clark to the Secretary of State, August 30, 1803, ibid., 13-14; William C. C. Claiborne to the President, August 24, 1803, ibid., 16-25; Clark to the Secretary of State, August 26, 1803, ibid., 25-26; Clark to the Secretary of State, September 8, 1803, ibid., 28-47; John Pintard to the Secretary of the Treasury, September 14, 1803, ibid., 49-54; Governor Claiborne to the President, September 29, 1803, ibid., 58-60; Clark to the Secretary of State, September 29, 1803, ibid., 61-66; William Dunbar to the President, September 30, 1803, ibid., 67-68; John Sibley to Claiborne, October 10, 1803, ibid., 72-78; Dunbar to the President, October 21, 1803, ibid., 85-87.

⁸Clark to the Secretary of State, September 8, 1803, ibid., 32. In an earlier report Clark set the population of all of Louisiana and West Florida at 42,375 although he stated this figure was too low. Daniel Clark to James Madison, August 17, 1803, Despatches from the United States Consuls in New Orleans, 1798-1807 (General Records of the Department of State. File Microcopies of Records in the National Archives: No. T-225. Microfilm in possession of author). Hereinafter cited as Despatches.

⁹Clark to the Secretary of State, August 17, 1803, enclosing a census of the city of New Orleans, Territorial Papers: Orleans Series, 1794-1813 (General Records of the Department of State. File Microcopies of Records in the National Archives: No. T-260. Microfilm in the New Orleans Public Library, New Orleans, Louisiana), II; David Yancey Thomas, A History of Military Government in Newly Acquired Territory of the United States (New York: Columbia University

Inhabitants of French descent composed the greatest part of the population, followed by substantial minorities of Spaniards, Englishmen, Americans, and a few Germans and Irish.¹⁰ The city sprawled for nearly a mile along the east bank of the Mississippi. Five forts, originally constructed during the Spanish regime, still encircled New Orleans, but they were in such a state of disrepair that they offered the inhabitants little protection. The port, however, was a scene of bustling activity with ships of many nations loading or discharging goods. In addition, there were rafts, cajeau,¹¹ flatboats, and pirogues carrying the produce of the vast interior of the continent. The bank of the river was lined with stores, houses, and the buildings which had housed the provincial governments of the French and Spanish.¹²

Press, 1904), 26; An Account of Louisiana Being An Abstract of Documents in the Offices of the Departments of State and of the Treasury (Philadelphia: William Duane, 1803), 16 sets the population of New Orleans at 10,000 including seamen and the military garrison; [Berquin-Duvallon], Travels in Louisiana and the Floridas in the Year 1802, Giving a Correct Picture of Those Countries, trans. by John Davis (New York: I. Riley and Company, 1806), 33 agrees with the 10,000 figure.

¹⁰Thomas, A History of Military Government, 26; Vincent Nolte, Fifty Years in Both Hemispheres; or Reminiscences of a Merchant's Life (London: Trubner and Company, 1854), 86; Account of Louisiana, 15.

¹¹The cajeau were crisscrossed cane rafts used to cross rivers, because they could be constructed in a short time. Alc  e Fortier, A History of Louisiana, ed. by Jo Ann Carrigan (2nd ed.; Baton Rouge: Claiborne's Book Store, 1966), 79.

¹²Amos Stoddard, Sketches, Historical and Descriptive of Louisiana (Philadelphia: Mathew Carey, 1812), 156-57;

The Isle of Orleans, of which the city was a part, was a jagged strip of land bounded on the south and west by the Mississippi River, the east by the Gulf of Mexico, and on the north beginning at the Mississippi by the Bayou Manchac, then known as the Iberville River, and Amite River, Lakes Maurepas, Ponchartrain, and Borgne, and the Mississippi Sound. The Mississippi River part of the boundary of this "island" was lined with plantations along both banks. These plantations began about fifty miles from the Gulf of Mexico and continued in an almost unbroken chain to the city itself. North of the city they resumed and formed an uninterrupted line to the mouth of the Bayou Manchac.¹³ The lands bordering the Mississippi River constituted the most extensive and valuable agricultural area of the territory, for this soil was fertile and they were close to New Orleans with its ever-expanding market for agricultural produce.

In 1803 Daniel Clark, United States Consul in New Orleans, in a reply to an inquiry by the President, stated that it was assumed in the territory that all the lands on

James Hosmer, A Short History of the Mississippi Valley (Boston: The River Side Press, Houghton, Mifflin, and Co., 1901), 125-26; Account of Louisiana, 16.

¹³Account of Louisiana, 5-6. In early nineteenth century Louisiana, distances were usually stated in leagues. A league varied from 2.4 to 4.6 miles. A French league generally represented 2.49 miles, while an old Spanish league commonly represented 2.63 miles, although it differed from one area to another. The author has used the French league of 2.49 miles in translating leagues into miles.

both sides of the Mississippi, not subject to inundation, from the Balize, a dilapidated watch tower on the west bank of the Mississippi River near its mouth,¹⁴ to the Iberville River were capable of sugar cultivation. In Clark's estimation, this included at least 50,000 acres. At the same time, the American consul noted that all the lands on both banks of the river from forty miles below New Orleans to Baton Rouge had been granted to the depth of forty acres.¹⁵ The Mississippi Coast--the lands along the river devoted to agriculture--was without a doubt the most densely settled and most valuable extensive tract of land in the Territory of Orleans. The United States government realized the importance of this region when its report of 1803 stated that the banks of the Mississippi from the sea to Pointe Coupée contained three-fourths of the population and seven-eighths of the riches of Louisiana.¹⁶

The Lower Coast included the lands along the Mississippi from its mouth to the city of New Orleans. From the Balize, at the mouth of the river, to Plaquemine, approximately fifty-seven and a half miles below New Orleans, the only inhabitants were a few fishermen and the pilots at the

¹⁴John Pintard to the Secretary of the Treasury, September 14, 1803, Carter (ed.), Orleans Territory, 53.

¹⁵Clark to the Secretary of State, September 8, 1803, ibid., 35.

¹⁶Account of Louisiana, 8.

mouth of the river. Because of the low swampy land, absence of timber, and threat of flooding, there were no permanent settlements along this stretch of the Mississippi River. From Plaquemine, ascending the river, the number of plantations began to increase, but they were not numerous below Pointe à la Hache. From there to the city, a distance of about thirty-two miles, the plantations were close together. They were, however, never more than one deep. Their principal product was sugar, but most were only moderate in size, and their owners were men of moderate means.¹⁷

There was only one settlement, or town, along the Mississippi River below New Orleans. Called Terre aux Boeufs, or San Bernardo, it was located about twelve and a half miles below New Orleans on the same side of the river. It had been settled by a group of Canary Islanders under the authority of the Spanish government. Numbering 661 people at the start of the territorial period, the inhabitants made a living mainly by producing cotton, corn, and vegetables, and raising cattle and poultry. They grew only a little sugar cane because the amount of arable land was severely restricted by the surrounding swamps.¹⁸

¹⁷William Darby, The Emigrant's Guide to the Western and Southwestern States and Territories . . . (New York: Kirk and Mercin, 1818), 17; Account of Louisiana, 5; Stoddard states that plantations of consequence do not appear until twenty-seven miles below New Orleans, Sketches, 160.

¹⁸Stoddard, Sketches, 160-61; Darby, Emigrant's Guide, 17; Account of Louisiana, 12; Daniel Clark to Madison, August 17, 1803, Despatches, I.

The Upper Coast--that is, the land along both sides of the Mississippi from New Orleans north to Bayou Manchac--was the principal sugar-producing region of the territory. It was occupied by extensive plantations worked by large gangs of slaves, and producing crops on some units with an annual value of \$25,000 to \$30,000.¹⁹ The Upper Coast was about seventy-five miles long and was subdivided into the coast of Tchapitoulas, the two German coasts, and the two Acadian coasts, with a total population of 9,156.²⁰

The coast of Tchapitoulas extended along the Mississippi for some fifteen miles above New Orleans. It was joined on the north by the First German coast (Premiere Côté Allemande), which ran for ten miles up the Mississippi River where it met the Second German coast (Seconde Côté Allemande), which was some fifteen miles in length. The German coasts were so-called because they were originally settled by German immigrants during the proprietorship of the Company of the West. These people were sturdy, hard-working farmers who produced vegetables and other articles for the New Orleans market, as well as engaging in extensive sugar cultivation. They were so successful that their area came to be

¹⁹Stoddard, Sketches, 162.

²⁰Clark to Madison, August 17, 1803, Despatches, I.

known as the Côte d'Or, or the Golden Coast.²¹ So well developed was the plantation economy of the German coasts by 1803 that their population included 2,666 slaves and only 1,571 whites.²²

North of the German settlements were Cabahanose, or First Acadian coast, which ran for about twenty miles along the river, and Fourche, or Second Acadian coast, which extended about fifteen miles more upriver. This region was also named for the largest element in its population--the Acadians who had settled there under the Spanish in the 1760's. The Acadians were also farmers, but success had not come to them as readily as to some of their German neighbors. In 1803 the white population in this area was 2,059, while that of the slaves was only 1,282.²³ Above the Acadian coasts was Iberville coast on the west bank which was similar in many ways to the land of the Acadians. Plantations were relatively few while small produce farms were

²¹John R. Ficklen, History and Civil Government of Louisiana (Chicago: Werner School Book Company, 1901), 92; Account of Louisiana, 5-6; W. C. Buchanan, Louisiana Geography (Oklahoma City: Harlow Publishing Corporation, 1959), 50.

²²Clark to Madison, August 17, 1803, Despatches, I.

²³[Berquin-Duvallon], Travels in Louisiana and the Floridas, 168; Ficklen, History and Civil Government, 92; Account of Louisiana, 6; Clark to Madison, August 17, 1803, Despatches, I; Bona Arsenault, History of the Acadians (Québec: L'Action Sociale Ltée., 1966), 201-206. Arsenault states that the two Acadian coasts were also known as the "Golden Coast of Louisiana."

numerous, and here again whites outnumbered slaves.²⁴

Still ascending the river, the last settlements were Pointe Coupée and behind it, False River 124.5 miles above New Orleans on the west side of the Mississippi. They were north of Baton Rouge and Galveztown, which in 1803 were claimed by Spain as part of its province of West Florida. Pointe Coupée extended along the river some twenty miles and contained prosperous plantations which produced cotton using large gangs of slaves. The white inhabitants, who numbered 547, were a mixture of French and Acadian. They owned 1,603 slaves.²⁵

The plantations along the Upper Coast usually had a frontage of five to twenty-five arpents²⁶ along the Mississippi River and a depth of forty arpents. Like those south of New Orleans, they were only one deep.²⁷ It was estimated

²⁴Account of Louisiana, 7-8; [Berquin-Duvallon], Travels in Louisiana and the Floridas, 173; Clark to Madison, August 17, 1803, Despatches, I.

²⁵Account of Louisiana, 8; [Berquin-Duvallon], Travels in Louisiana and the Floridas, 173; Clark to Madison, August 17, 1803, Despatches, I.

²⁶In Louisiana an arpent was used both as a linear and an area measurement. As a linear measure an arpent approximated 192 feet while in area it represented 0.85.07 of an acre or five-sixths of an acre. Joseph Kenton Bailey, A Manuel On Examination of Louisiana Land Titles (New Orleans: The Industries Publishing Company, 1942), 278; Raleigh A. Suarez, "Louisiana's Struggling Majority: The Ante-Bellum Farmer," The McNeese Review, XIV (1963), 23.

²⁷Elvina Marguerite Echezabal, "The Public Career of W. C. C. Claiborne from 1795-1804" (unpublished master's thesis, Tulane University, New Orleans, 1935), 87; [Berquin-Duvallon], Travels in Louisiana and the Floridas, 168; Account of Louisiana, 6.

that one French arpent produced on an average 1,200 pounds of sugar and 50 gallons of rum. Accordingly, the plantations from New Orleans to the Iberville River should have yielded approximately 25,000 hogsheads of sugar and 12,000 puncheons of rum annually.²⁸

The Mississippi Coast, however, was not the only significant area of population and cultivation within the Territory of Orleans. There were other widely scattered inhabited stretches. Usually located along bayous and rivers, they had developed into thriving communities by the beginning of the territorial period. Like the coast, these settlements were dependent upon some type of agriculture, and many had originated from an earlier migration to Louisiana of some ethnic group, such as the Acadians or Canary Islanders. All of these minor settlements were west of the Mississippi River and several, because of their location, served to some degree as frontier outposts of the Orleans Territory, and, indeed, of the United States.

In the Southwest was Atakapas, an area which centered along Bayou Teche and the Vermilion River. The principal habitations of this district were located on both banks of the Vermilion River and Bayou Teche, especially on the western side of the latter. The lower Teche was checkered with plantations devoted chiefly to cotton production,

²⁸Account of Louisiana, 27-28; [Berquin-Duvallon], Travels in Louisiana and the Floridas, 169.

although sugar cultivation had been introduced successfully. In addition to cotton and sugar, the inhabitants of Atakapas engaged extensively in the raising of cattle on the expansive prairies which covered the interior lands back from the bayous and rivers. Fresh meats, hides, tallow, butter, and cheese were sent to markets in New Orleans by Bayou Plaquemine or Bayou La Fourche. The population of the district was sparse, numbering only 859 whites, mostly Americans, and 530 slaves; however, the figure was constantly increasing, as Americans continued to pour into the region from the United States. New Iberia was the only compact village; however, it had declined from its previous extent and population under the Spanish authorities.²⁹

North of Atakapas was the prosperous district of Opelousas. The two areas were separated by Bayou Fusilier which connected Bayou Teche with the Vermilion River. Opelousas was similar to its southernly neighbor in many ways. Most of the people were recently arrived Americans

²⁹Henry Marie Brackenridge, Views of Louisiana Together With a Journal of a Voyage Up the Missouri River in 1811 (2nd ed.; Chicago: Quadrangle Books, 1962), 170; C. C. Robin, Voyage to Louisiana, 1803-1805, trans. by Stuart O. Landry, Jr. (New Orleans: Pelican Publishing Company, 1966), 185-86; Ficklen, History and Civil Government, 92; Lewis Dumain to Albert Gallatin, July 20, 1807, containing a report of the survey of the coast of the Territory of Orleans, Territorial Papers, 1789-1873 (Records of the United States Senate. File Microcopies of Records in the National Archives: No. M-200. Microfilm in possession of author), V; Clark to Madison, August 17, 1803, Despatches, I.

engaged in cattle raising and cotton production. Their dwellings were scattered along the banks of the numerous bayous which intersected the prairies, but were found in no concentrated patterns. The population in 1803 was 1,646 whites and 808 Negro slaves and was expected to continue increasing at a rapid rate.³⁰

Above Opelousas was the inhabited country of the Red River, a stream which emptied into the Mississippi about 174 miles above New Orleans. In the vicinity of this stream were three settlements--Avoyelles, Rapides, and Natchitoches. Of the three, Natchitoches was the largest with 785 white people and 846 slaves. Most of the residents were French in origin and engaged in one of two occupations--trade with the Indians or agriculture. Natchitoches was also the oldest settlement in the Orleans Territory, having been founded in 1714, and was surrounded by extensive fields of corn, cotton, and tobacco. The tobacco was acclaimed for its quality. Situated on the road from the American possessions to Spanish Mexico, Natchitoches occupied a strategic military position. For this reason, and also because of the numerous Indian tribes, the French and Spanish governments had maintained a garrison at the village and the United States

³⁰Echezabal, "Public Career of Claiborne," 88; Brackenridge, Views of Louisiana, 169, 171; Stoddard, Sketches, 181; Account of Louisiana, 7; Clark to Madison, August 17, 1803, Despatches, I.

government followed their example by establishing Fort Claiborne.³¹

Between Natchitoches and the mouth of Red River were the other two river settlements--Rapides and Avoyelles with a combined population of 1,190. Most of the inhabitants were Americans, although there was a sprinkling of Frenchmen in Avoyelles. They were small farmers, who engaged in producing corn and cotton and raising cattle and swine. A few plantations had developed in Rapides, but they were moderate in size and output.³²

In addition to the large settlements, there were a few small newly formed communities like Ouachita and Concord. Ouachita was a small farming settlement situated on the river of the same name in the northern part of the territory. The residents numbered only 361 in 1803 and engaged in cultivating cotton along the banks of the stream. Concord was a tiny outpost on the west bank of the Mississippi opposite Natchez. It had been occupied so recently that no population figures were available for 1803. Neither of these places was important at the start of the territorial period, but by the end of it each had developed sufficiently

³¹Account of Louisiana, 8; Sketches, 187-88; Clark to Madison, August 17, 1803, Despatches, I.

³²Ficklen, History and Civil Government, 92-93; Stoddard, Sketches, 185-86; Clark to Madison, August 17, 1803, Despatches, I.

to be the nucleus of a parish.³³

Lower Louisiana, organized as the Territory of Orleans early in 1804, was a valuable addition to the United States. Most importantly it contained the lower banks of the Mississippi River and the city of New Orleans, the gateway to the interior of North America. The territory was not well populated, except along the major rivers and bayous; the inhabitants represented many ethnic groups with diverse backgrounds. Most of the people--free and slave--were engaged in cultivating the rich lands of Louisiana and producing two valuable products, sugar and cotton. On the basis of its settlements and peoples, the Orleans Territory was the most important part of Jefferson's controversial purchase.

³³Account of Louisiana, 8-9; Stoddard, Sketches, 200; Clark to Madison, August 17, 1803, Despatches, I.

CHAPTER III

INAUGURATION OF AMERICAN SOVEREIGNTY

While busily accumulating information on the newly acquired territory, Washington officials were preparing for its transfer to the United States and for its government. There were novel problems, for the United States had never before acquired any additional territory or sought to govern people who were alien in language, customs, and manners. Furthermore, there was reason to believe that many of the people were rather unhappy at the prospect of becoming American citizens and would accept its sovereignty reluctantly.

On October 21, 1803, the United States Senate ratified the treaty of cession with France,¹ and that same day President Jefferson sent a message to Congress urging immediate action to preserve order in the ceded territory and to insure its quiet transfer to the United States.² Then

¹"Treaty for the Cession of Louisiana," Hunter Miller (ed.), Treaties and Other International Acts of the United States of America (8 vols.; Washington: Government Printing Office, 1931), II, 498.

²James D. Richardson (ed.), A Compilation of the Messages and Papers of the Presidents, 1789-1902 (10 vols.; New York: Bureau of National Literature and Art, 1903), I, 362-63.

Congress passed and the President signed into law an "Act to Enable the President to Take Possession of Louisiana." This measure authorized the Chief Executive to utilize such part of the armed forces as he might think necessary to maintain the authority of the nation in Louisiana and to draw funds for this purpose from a previous military appropriation. The law also provided that the existing form of government was to be maintained until Congress should provide for a temporary government for the territory, or until the end of its current session. The powers of that government were to be exercised by the person or persons appointed for that purpose by the President.³

On the same day that the law was passed, President Jefferson commissioned William Charles Cole Claiborne and James Wilkinson agents of the United States to receive the transfer of Louisiana and to occupy it, and directed them to perform their duties as soon as possible.⁴ Claiborne was then governor of Mississippi Territory; Wilkinson was brigadier general of the United States army, then in Georgia engaged in determining the boundary of a recent Indian

³United States Statutes at Large, II, 245; Clarence E. Carter (ed.), Orleans Territory, 1803-1812 (Volume IX of Territorial Papers of the United States, Washington: Government Printing Office, 1940), 89-90; Le Moniteur de la Louisiane (New Orleans), November 26, 1803, supplement.

⁴"Commission of William C. C. Claiborne and James Wilkinson as Agents," Carter (ed.), Orleans Territory, 94-95.

cession.⁵ Although the two commissioners were appointed October 31, notice of his appointment did not reach Claiborne at Natchez until mid-November, and Wilkinson, still in Georgia, did not receive his commission until later.⁶ This delay allowed Claiborne time to continue collecting data on actual conditions in Louisiana and military personnel to make preparations for occupying the newly acquired territory.

Meanwhile, unrest developed among the inhabitants of Louisiana and reports circulated that the Spanish government objected to the transfer and even planned to prevent it by force. The Marquis de Casa Calvo officially protested the legality of the sale of Louisiana to the United States.⁷ From New Orleans, Daniel Clark reported the hostile attitude of Spain towards the transfer.⁸ Pierre Clement Laussat,

⁵Claiborne to Madison, November 18, 1803, Territorial Papers: Orleans Series, 1794-1813 (General Records of the Department of State. File Microcopies of Records in the National Archives: No. T-260. Microfilm in the New Orleans Public Library, New Orleans, Louisiana), II. Hereinafter cited as S.D. Territorial Papers.

⁶Claiborne to Clark, November 17, 1803, Carter (ed.), Orleans Territory, 109; Claiborne to Madison, November 18, 1803, S.D. Territorial Papers, II.

⁷Secretary of State to the Spanish Minister, October 4, 1803, Carter (ed.), Orleans Territory, 69.

⁸Clark to Claiborne, November 7, 1803, Despatches from the United States Consuls in New Orleans, 1798-1807 (General Records of the Department of State. File Microcopies of Records in the National Archives: No. T-225. Microfilm in possession of author), I; Clark to Claiborne November 11, 1803, Carter (ed.), Orleans Territory, 102; Claiborne to Madison, November 18, 1803, S.D. Territorial Papers, II.

French colonial prefect, in sympathy with the Americans, likewise predicted that Spanish hostility would delay the transfer proceedings.⁹

Eager to establish American control of Louisiana at the earliest moment possible, in July, 1803, the War Department had notified Captain Edward Turner, the commanding officer at Fort Adams, Mississippi Territory, of the forthcoming expedition to take control of Louisiana and had ordered him to prepare materials for the construction of boats, and to collect provisions for the increased number of troops.¹⁰ On October 31, Henry Dearborn urged Turner to finish the boats and complete all preparations necessary for the expedition, if General Wilkinson had not yet arrived to assume command.¹¹ On the same day, the Secretary of War also wrote the governors of Tennessee, Kentucky, and Ohio, requesting them to mobilize the militia of their states for possible participation in the New Orleans expedition. Dearborn asked that Tennessee contribute five hundred

⁹Secretary of State to Clark, October 31, 1803, Carter (ed.), Orleans Territory, 95; Pierre Clement Laussat to Claiborne, November 23, 1803, ibid., 110-12.

¹⁰Henry Dearborn to the Commanding Officer at Fort Adams, July 18, 1803, Letters Sent by the Secretary of War, Relating to Military Affairs, 1800-1889 (Records of the Office of Secretary of War. File Microcopies of Records in the National Archives: No. M-6. Microfilm in possession of author), II, 28. Hereinafter cited as L.S., S.W., M.A.

¹¹Dearborn to the Commanding Officer at Fort Adams, October 31, 1803, ibid., 96-97.

militiamen immediately and that fifteen hundred additional men be armed and on the alert to march at a moment's notice if needed. He asked Kentucky to hold four thousand militia-men in readiness, and Ohio five hundred.¹²

Even General Wilkinson's original orders of October 31, 1803, indicated American suspicion of Spain's intentions by providing two sets of instructions--one to be followed if the transfer was peaceful; the other to take effect in case of trouble. Wilkinson, besides being notified of his appointment as a commissioner to receive Louisiana, was authorized to command the American force which would take possession of the military establishments in the area, especially the forts in New Orleans and its vicinity. For this purpose the General was to command a force consisting of six companies of regular troops and one hundred volunteer militiamen from Mississippi Territory. As soon as occupation was accomplished, Wilkinson was to send orders northward for the transfer of the posts in Upper Louisiana. These instructions from the War Department were to apply in the case of a peaceful occupation. If, on the other hand, opposition seemed likely on the part of the Spanish officials or the inhabitants of Louisiana, Wilkinson was to consult with Governor Claiborne, and the two men together were to

¹²Dearborn to John Sevier, October 31, 1803, ibid., 97-99; Dearborn to James Gerard, October 31, 1803, ibid., 99-100; Dearborn to Edward Tiffin, October 31, 1803, ibid., 100-101.

decide if successful occupation would result if all the regulars at Fort Adams, of whom there were from three to four hundred, and all the militia in the vicinity of Natchez, estimated at from six hundred to nine hundred, were employed. If in their opinion, success would be ensured by such a large force, they were to hasten to New Orleans. Before making any decision, the commissioners were urged to ascertain the situation in Louisiana from Clark, Laussat, and other friends of the American government in the city. Finally, Wilkinson was notified of the mobilization of the troops from Ohio, Kentucky, and Tennessee, but he was ordered, should such a considerable force be deemed necessary, to send immediate word to Washington.¹³ The General, however, did not receive these orders until he reached Fort Adams early in December to assume his command.¹⁴

Meanwhile, important events were taking place in New Orleans involving Casa Calvo, the Spanish commissioner, and Laussat, the French colonial prefect. Laussat was anxious to claim the province for his government, but was hesitant to do so because he had not received official instructions to effect the transfer. The original documents did not arrive in New Orleans until November 25, 1803, although a

¹³Dearborn to Wilkinson, October 31, 1803, ibid., 92-96.

¹⁴Claiborne to the President, December 8, 1803, Carter (ed.), Orleans Territory, 135-36.

special express messenger, accompanied by an American agent, had set out from Washington as early as October 12 to deliver them.¹⁵

General Wilkinson also reached New Orleans on November 25, on his return from Pensacola. He remained there for twenty-four hours during which time he met with the French and Spanish officials, and then he proceeded to Fort Adams to meet Governor Claiborne and assume his command.¹⁶

A few days later, the French and Spanish commissioners met at the Government House, where they exchanged credentials.¹⁷ Then, on November 30, 1803, Prefect Laussat officially received the province of Louisiana from the Marquis de Casa Calvo. At ceremonies marking the transfer, the French colonial prefect issued a proclamation to the inhabitants of Louisiana notifying them that they would be

¹⁵Secretary of State to Clark, October 12, 1803, ibid., 78-79; Clark to the Secretary of State, November 28, 1803, ibid., 112-13; Laussat to Claiborne, November 23, 1803, ibid., 110-12; Clark to Claiborne, November 23, 1803, ibid., 119-21; Clark to the Secretary of State, November 28, 1803, ibid., 112-14. Laussat worried about the lengthy delay, but hesitated to use some copies of his papers which had reached him for fear the Spanish officials might not respect his authority and so delay the transfer. Clark was also concerned over the delay, fearing that Laussat's rashness might lead him to demand the province and be refused.

¹⁶Clark to the Secretary of State, November 28, 1803, ibid., 112-14; Clark to Claiborne, November 25, 1803, ibid., 122-23.

¹⁷Clark to the Secretary of State, November 29, 1803, ibid., 123-25.

under the French sovereignty only for a short time, since the United States commissioners were expected daily in the city to claim possession. He stated that the war in Europe was France's principal reason for ceding Louisiana, and he assured the people of the blessings and advantages they would enjoy in the American Union.¹⁸ Having accepted Louisiana from Spain, Laussat was anxious to transfer it to the United States as soon as possible. He urged the American commissioners to conclude their preparations and descend the river to New Orleans without delay.¹⁹ Clark also urged haste on Claiborne and Wilkinson, stating that the public mind was greatly agitated, and only their presence could ensure continued peace and order.²⁰ Thus everything was ready for the arrival of the American commissioners at New Orleans by November 30, 1803.

The departure of the American occupation force from Fort Adams, however, was delayed. The boats for the journey

¹⁸Documents and Letters of Laussat, Colonial Prefect and Commissioner of the French Government, and of the Commissioners of His Catholic Majesty, From November 30, 1803 to March 31, 1804 (Typescript Copy. City Archives, New Orleans Public Library, New Orleans, Louisiana). Hereinafter cited as Laussat's Documents and Letters; Claiborne and Wilkinson to Laussat, December 7, 1803, S.D. Territorial Papers, I.

¹⁹Clark to Claiborne and Wilkinson, November 29, 1803, Carter (ed.), Orleans Territory, 125.

²⁰Clark to Claiborne and Wilkinson, November 29, 1803, ibid.; Clark to Claiborne and Wilkinson, November 30, 1803, S.D. Territorial Papers, II.

downriver were not completed and some of the militia had not yet arrived, although they were expected daily. Many of the volunteers were ill prepared for the operation, having inadequate clothing for the season and no blankets.²¹ The commander of the expedition, Wilkinson, did not arrive at Fort Adams until December 4. Until that time Claiborne had been trying to direct the military operations from Natchez. Anxiously the Governor awaited the appearance of his co-commissioner, and on hearing of his approach to Fort Adams, Claiborne confiscated a private schooner, the Bilboa, and rushed to join Wilkinson there. The General assured him that his command would be ready to embark in two days.²²

From the day of his arrival at Fort Adams until the actual embarkation of the troops on December 10, Wilkinson directed military operations. On the first day of his command, he ordered every man to be kept on fatigue duty until each boat was loaded, instructed the officers to make inventories of available military stores, and commanded that the militia troops be supplied with tools, tents, and other necessary articles. He delegated the command of the militia to Captain Abner L. Duncan, ordered the troops "to appear in as strict uniform as possible from head to heel," and limited

²¹Claiborne to Madison, December 4, 1803, S.D. Territorial Papers, II.

²²Claiborne to Madison, November 18, 1803, ibid.; Claiborne to Madison, November 19, 1803, ibid.; Claiborne to Madison, December 4, 1803, ibid.

the number of women allowed to four per company.²³ Three days later, he issued general orders that all troops, regular and militia, be provided with twenty-four rounds of ammunition and two extra flints.²⁴ Finally, on December 9, 1803, the General issued detailed regulations governing the embarkation, sailing, and disembarkation of the troops destined for New Orleans.²⁵

On December 11, 1803, the boats departed Fort Adams for New Orleans in a downpour.²⁶ The flotilla consisted of nineteen boats, each of which was assigned a specific position in the naval formation. The Bilboa was conspicuous since it was the lead ship and carried a crack group of artillerists to return salutes offered the American expedition as it descended the river.²⁷ None of the boats nor any individual was to land or break formation without the express permission of the commanding officer, unless in distress. General Wilkinson established an intricate system of signals

²³General James Wilkinson's Order Book, December 31, 1796-March 8, 1808 (File Microcopies of Records in the National Archives: No. M-438. Microfilm in possession of author), 410. Hereinafter cited as Wilkinson's Order Book.

²⁴General Orders, December 7, 1803, ibid., 409-10.

²⁵General Orders, December 9, 1803, ibid., 411-13.

²⁶Dearborn to Wilkinson, January 6, 1804, L.S., S.W., M.A., II, 141.

²⁷General Orders, December 8, 9, 1803, Wilkinson's Order Book, 410-11.

to guide the boats.²⁸ The expedition included approximately five hundred men. Of this number two hundred were militia-men from Mississippi Territory.²⁹

After a calm voyage, on December 16, the expedition landed and encamped on the left bank of the Mississippi near New Orleans to await official entrance into the city. With the end of the trip, Wilkinson issued instructions governing the actions of his men in the transfer proceedings. To the officers he urged the maintenance of strict discipline over their men to prevent any dishonor to the American nation. To the soldiers he recommended a friendliness and understanding towards the Louisianians, urged them to respect the persons and property of the inhabitants, and threatened severe punishment for any abuse.³⁰

During the river voyage there had been only one major mishap. The schooner carrying Governor Claiborne ran aground near Pointe Coupee and was abandoned. The passengers completed the trip in a small boat in which they were much exposed to the weather. They rejoined the occupation force at its temporary camp on December 17.³¹

²⁸General Orders, December 9, 1803, ibid., 411-13.

²⁹Claiborne to the President, December 8, 1803; Carter (ed.), Orleans Territory, 136.

³⁰General Orders, December 17, 1803, Wilkinson's Order Book, 417-19.

³¹Claiborne to the Secretary of State, December 17, 1803; Carter (ed.), Orleans Territory, 138.

The following day, the two American commissioners, accompanied by a military escort, waited upon Prefect Laussat to present their credentials and arrange the transfer ceremonies.³² On December 19, the colonial prefect, accompanied by members of the municipality and militia, officially returned their visit.³³

On December 20, 1803, occurred the official transfer of Louisiana from France to the United States. That morning the tri-colored flag of the French Republic was raised for the last time over the Place D'Armes in New Orleans. At eleven o'clock, the militia of the municipality paraded before the French emblem, and shortly thereafter the American commissioners rode into the square at the head of the United States troops in dress uniform with full equipment. The cavalry were in front, followed by four artillery pieces, the infantry, and several more cannon in the rear. An American flag flew from the first howitzer.³⁴ The soldiers, with the artillery in front, formed in the square opposite the French militia. Leaving the troops, the two American

³²Charles Gayarré, History of Louisiana (4 vols., 4th ed.; New Orleans: Pelican Publishing Company, 1965), III, 618; Claiborne to the Secretary of State, December 17, 1803, Carter (ed.), Orleans Territory, 138.

³³Francois-Xavier Martin, The History of Louisiana from the Earliest Period (2nd ed.; New Orleans: Pelican Publishing Company, 1963), 297; Gayarré, History of Louisiana, 618-19.

³⁴General Orders, December 19, 1803, Wilkinson's Order Book, 420-21.

commissioners entered the Hotel de Ville where Prefect Laussat met them. Together they proceeded to the Grande Salle. There Laussat, after the reading of the legal papers, delivered the keys of the city to Claiborne and absolved the inhabitants from all allegiance to the French Republic. The commissioners signed the procès-verbal and then moved to the front gallery of the Government House to witness the lowering of the French flag and the raising of the American. The ceremonies were over by noon.³⁵

On the same day that he was appointed commissioner to receive Louisiana, Governor Claiborne was named the territory's temporary governor. As such, he was to exercise all the military, civil, and judicial power which had belonged to the governor and intendant of Spanish Louisiana. In other words, Claiborne was to be sole ruler of the territory subject only to the directions of the President. By his commission of October 31, 1803, however, two specific limitations were placed on his power: he could not levy or collect any new or additional taxes nor could he grant any land

³⁵Martin, History of Louisiana, 297; Edwin A. Davis, Louisiana: A Narrative History (2nd ed.; Baton Rouge: Claiborne's Book Store, 1965), 163; Wilkinson to the Secretary of War, December 20, 1803, Carter (ed.), Orleans Territory, 138; Mémoires Sur Ma Vie, A Mon Fils, Pendant Les Années 1803 et Suivantes . . . par M. De Laussat. Pau E. Vignan Cour, Imprimeur Libraire, 1851 (Translated as Extracts from Memoirs of De Laussat, in the Main Relating to Louisiana, Book I, December, 1803-July, 1804, n.d. Typescript copy. Louisiana State Museum Library, New Orleans, Louisiana), 77-81.

titles.³⁶ Elaborating on the general powers granted Claiborne in his original commission, on November 13, the President issued a supplementary commission specifically authorizing him to remove officers, fill vacant positions, and abolish such other officers as he should deem expedient.³⁷ Claiborne's commission as governor was to terminate at the end of the existing session of Congress or sooner in case Congress should pass a bill providing for a government.³⁸

Although not lacking executive and judicial experience, William Charles Cole Claiborne was, upon taking office, a complete stranger to the language, manners, and customs of the people he was to govern. He was born in Sussex County, Virginia, in 1775, the second son of William and Mary (Leigh) Claiborne. Most of his biographers claim that young William at the age of eight was already imbued by his father with a staunch republican attitude.³⁹ After a brief enrollment at

³⁶"Commission of William C. C. Claiborne as Temporary Governor," October 31, 1803, Carter (ed.), Orleans Territory, 143-44.

³⁷"Supplementary Commission of Governor Claiborne," November 13, 1803, ibid., 144-45.

³⁸"Commission of William C. C. Claiborne as Temporary Governor," October 31, 1803, ibid., 143-44; "Supplementary Commission of Governor Claiborne," November 13, 1803, ibid., 144-45.

³⁹Dunbar Rowland (ed.), Official Letterbooks of William C. C. Claiborne, 1801-1816 (6 vols.; Jackson: State Department of Archives and History, 1917), I, 1-2; Stanley C. Arthur (ed.), "Claiborne Family," Old Families of

Richmond Academy and William and Mary, at the age of fifteen Claiborne set out from his home with fifty dollars in his pocket. He went to New York City, where he secured a job with John Beckley, a Congressional clerk, copying bills and resolutions and drawing up bills for individual Congressmen and committees. Upon Congress's removal to Philadelphia in 1790, Claiborne followed. In his spare time, he studied and attended some of the debates in the national legislature. It was during this period that Claiborne became acquainted with such leading figures of the day as John Q. Adams, Thomas Jefferson, and John Sevier. The latter urged Claiborne to become a lawyer. Rather than going west, Claiborne went to Richmond, Virginia, to study law and within three months was admitted to the bar. He soon moved to Sullivan County in the Territory Southwest of the Ohio where he developed a substantial criminal law practice.⁴⁰

Louisiana (New Orleans: Harmanson, 1931), 144-45; "William C. C. Claiborne," The National Portrait Gallery of Distinguished Americans (edited by James B. Longacre and James Herring; 4 vols.; Philadelphia: James B. Longacre, 1839), IV, 1-2.

⁴⁰Annie Walker Burns, Historical Records of the Claiborne Family (Washington: Annie Walker Burns, n.d.), n.p.; Henry E. Chambers, "William Charles Cole Claiborne, Governor of Mississippi Territory and First Governor of Louisiana; How He Solved America's First Problem of Expansion," Publications of the Mississippi Historical Society, III (1900), 248-49; Nathaniel Herbert Claiborne, Notes on the War in the South: With Biographical Sketches of the Lives of Montgomery, Jackson, Sevier, The Late Governor Claiborne and Others (Richmond: William Ramsay, 1819), 96-101.

In 1796 Claiborne was elected a delegate from Sullivan County to the convention called to draft a constitution for the state of Tennessee. Upon his election as its first governor, John Sevier, Claiborne's old friend, appointed the young lawyer, not yet twenty-two years old, a judge of the Supreme Court of Tennessee. Claiborne remained in that position only a short time, for in August, 1797, he was elected to complete the unfinished congressional term of Andrew Jackson who had moved up to the Senate. In the fall of 1798, Claiborne was re-elected as the sole member of the House of Representatives from Tennessee. When in 1800 Jefferson and Burr tied in the voting for president in the Electoral College and the election was thrown into the House, Claiborne cast Tennessee's vote consistently for the Virginian until, on the 36th ballot, he was elected. Jefferson never forgot the young congressman's loyalty, and soon after taking office in 1801 appointed him governor of Mississippi Territory.⁴¹ When the United States bought Louisiana

⁴¹Charles Lauman, Biographical Annals of the Civil Government of the United States During Its First Half Century (Washington: James Anglun, 1876), 80; Joshua W. Caldwell, Bench and Bar of Tennessee (Knoxville: Ogden Brothers & Co., 1898), 60; Elvina Marguerite Eschezabal, "The Public Career of W. C. C. Claiborne from 1795-1804" (unpublished master's thesis, Tulane University, New Orleans, 1935), 23-24; Ausie Lawrence Porter, "W. C. C. Claiborne's Administration in Louisiana, Provincial, Territorial and State" (unpublished master's thesis, Tulane University, New Orleans, 1932), 9-10; Claiborne, Notes on the War in the South, 103-108; Noble E. Cunningham, Jr., The Jeffersonian Republicans in Power: Party Operations, 1801-1809 (Chapel Hill: The University of North Carolina Press, 1963), 16; [E. Soniat] Biographical Sketches of Louisiana's Governors (New Orleans: A.W.H. Wyatt, 1885), 21.

in 1803, Claiborne was a logical choice for commissioner and governor as he was the highest ranking civil officer in the area and well qualified for the post.

Although having been named interim or temporary governor of Louisiana, Claiborne was not Jefferson's first choice for permanent governor of the Territory of Orleans in 1804. Apparently, that post was initially intended for the Marquis de Lafayette, "a person," according to Jefferson, "whose great service and established fame would have rendered him peculiarly acceptable to the nation at large."⁴² In addition to the great revolutionary hero, the President also considered such notables as James Monroe and Andrew Jackson.⁴³ When all of these declined the post, Jefferson named Claiborne permanent governor of the Territory of Orleans December 12, 1804.⁴⁴ He did so with little enthusiasm, considering Claiborne to be an honest, sincere, and above all, thoroughly loyal official whose past performance had been adequate, but not outstanding. Until some one better

⁴²President Jefferson to Claiborne, August 30, 1804, Carter (ed.), Orleans Territory, 281.

⁴³Walter Prichard, "Selecting a Governor for the Territory of Orleans," The Louisiana Historical Quarterly, XXXI (April, 1948), 269-393; Gaillard Hunt, "Office Seeking During Jefferson's Administration," The American Historical Review, III (January, 1898), 270-91.

⁴⁴Jefferson to Claiborne, August 30, 1804, Carter (ed.), Orleans Territory, 281-82. The President silenced Congressional opposition to Claiborne's appointment in the Senate by entertaining Senators at dinners, Cunningham, Jeffersonian Republicans in Power, 96.

qualified could be obtained, the present governor would do.

Immediately after the delivery of the territory, Claiborne issued his first proclamation as its governor. He reviewed the recent treaties and acts by which the United States acquired the province and promulgated the law of Congress establishing an interim government for Louisiana and the commission naming him its governor. Reiterating the commitment of the treaty cession, Claiborne assured the inhabitants of the territory that

. . . [they] will be incorporated into the United States, and admitted as soon as possible according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of Citizens of the United States; that in the meantime they shall be maintained and protected in the free enjoyment of their Liberty, Property, and Religion which they profess.⁴⁵

He further assured them that all the laws and municipal regulations in force at the time of the transfer were to remain in operation, and that all but two civil administrators would continue to exercise their normal functions during the pleasure of the governor or until other provisions were made. The two exceptions were collector of revenue, which was to be filled by Hore Browse Trist, and governor

⁴⁵James A. Robertson (ed.), Louisiana Under the Rule of Spain, France, and the United States, 1785-1807 (2 vols.; Cleveland: The Arthur H. Clark Company, 1911), II, 225-26; "Proclamation of the Surrender of Louisiana," December 20, 1803, Rowland (ed.), Claiborne's Letterbooks, I, 306-308.

and intendant, offices which Claiborne himself would hold.⁴⁶

Following this official announcement of the assumption of American sovereignty over Louisiana, Governor Claiborne addressed his "Fellow Citizens" briefly. Congratulating them upon becoming a part of the United States and promising their acceptance as brothers, Claiborne assured the people of Louisiana that this last change of administration was permanent, and that they could depend upon the American government to protect their liberty, property, and religion and promote their agriculture and commerce. In return, he assured them that the United States government only hoped to see the Louisianians develop a loyalty and attachment to the Constitution and its principles. He spoke briefly of the advantages of education in preparing the young people to appreciate a republican form of government.⁴⁷

Claiborne's last official act of the day was to reinstate the Conseil De Ville, the local municipal body which Prefect Laussat had established to replace the Spanish Cabildo. It was composed of the mayor, recorder-secretary, and twelve members.⁴⁸ The mayor and all the councilmen,

⁴⁶"Address," December 20, 1803, Rowland (ed.), Claiborne's Letterbooks, I, 309; Secretary of the Treasury to Hore Browse Trist, November 14, 1803, Carter (ed.), Orleans Territory, 106-107.

⁴⁷"Address," December 20, 1803, Rowland (ed.), Claiborne's Letterbooks, I, 309-10.

⁴⁸"Resolution for the Establishment of the Municipal Authority at New Orleans," November 30, 1803, Laussat's Documents and Letters.

except Evan Jones and Pierre Sauve, agreed to continue in office under the American governor. Those two resigned.⁴⁹ Following the official ceremonies of transfer, Governor Claiborne and other dignitaries attended a magnificent dinner at Laussat's residence which was followed by a splendid ball that night.⁵⁰

Although participating in the official functions and celebrations of the day, General Wilkinson's chief concern was with the military occupation of New Orleans. Before leaving camp in the morning, he detailed eight separate detachments of guards to assigned positions throughout the city which they were to assume as soon as the ceremonies of delivery were completed.⁵¹ Later in the day, he designated Captain Edward Turner officer of the day with instructions to visit the several guards periodically during the night. Finally, he established three patrols. These mobile forces, aided by guides and interpreters, were to patrol designated parts of the city throughout the night. They were to stop

⁴⁹"Procès Verbal of the Reinstallation of the Municipal Body on the Day of Taking Possession of the Colony by the United States," December 20, 1803, Conseil De Ville: Proceedings of Council Meetings, No. 1, Book I (Typescript Copy. City Archives, New Orleans Public Library, New Orleans, Louisiana).

⁵⁰Wilkinson to the Secretary of War, December 20, 1803, Carter (ed.), Orleans Territory, 138-39; Laussat, Memoires Sur Ma Vie, 80-81; Henry E. Chambers, A History of Louisiana (3 vols.; Chicago: The American Historical Society, 1925), I, 434.

⁵¹General Orders, December 20, 1803, Wilkinson's Order Book, 422.

anyone found on the street without a light, and, if he was unknown to them, to escort him to their respective post for further investigation. The patrols were also to seize and confine any Negro or mulatto slave who was on the street after nine o'clock without a light and written permission from his master.⁵² The men not on patrol duty were to remain on the alert to aid in putting down any disturbance that might arise.⁵³

General Wilkinson ordered these extreme precautions because he was apprehensive about the peace and order of New Orleans. He feared the large number of free Negroes who might rise up and take over the city during the period of transition to American control. He also felt unsure of the whites because he believed them to be accustomed to a despotic government. Wilkinson's apprehension grew when Daniel Clark informed him of a clandestine plot to fire the city during the night. Although he apprehended no serious danger, General Wilkinson, wishing to take no chances and cover all possibilities, requested that a force of five hundred regulars be dispatched to New Orleans as soon as possible.⁵⁴

⁵²Ibid., 424-25.

⁵³Ibid.

⁵⁴Wilkinson to the Secretary of War, December 20, 1803, Carter (ed.), Orleans Territory, 138-39. The Secretary of War acceded to Wilkinson's request for more troops by ordering three additional companies to New Orleans raising the total to ten companies. He suggested six companies remain in New Orleans and four be stationed throughout the rest of the territory. Dearborn to Wilkinson, February 2, 1804, L.S., S.W., M.A., II, 164.

Governor Claiborne, unlike Wilkinson, was favorably impressed with the people and situation of Louisiana. Since he had no opportunity to become acquainted with the more distant reaches, he formed his early judgments on his view of New Orleans, its people, and the surrounding countryside. He described the river area in glowing terms, stating that the land from New Orleans to Baton Rouge was well developed with substantial plantations lining both banks of the Mississippi. New Orleans, he pictured as containing well laid out streets with many imposing edifices and elaborate homes. It was, he felt, a city of progress with improvements visible on all sides.⁵⁵ Claiborne considered the inhabitants of Louisiana an ambitious, prosperous people, who had been suppressed by a corrupt, despotic government. He felt that they had accepted American control and showed no dissatisfaction or discontent, although he anticipated that a considerable time would be necessary to introduce them to the American way of life.⁵⁶ Claiborne deplored several conditions among the people, especially the lack of learning. He urged that an effective system of public education be immediately established to replace the few private schools which existed in the city. He doubted whether representative government should be established, fearing that the

⁵⁵Claiborne to Madison, December 27, 1803, Rowland (ed.), Claiborne's Letterbooks, I, 314-15.

⁵⁶Claiborne to Madison, January 2, 1804, ibid., 322.

principles of republicanism were beyond the comprehension of the people. Opposing a military regime for the province, Claiborne favored as its initial form of government that of a first stage territory. He wanted a temporary period of control from Washington to enable the people to develop a familiarity and understanding of the representative system.⁵⁷ For about a month, the Governor was oblivious to any serious disaffection among the people, and during this period he attempted to meet the immediate problems of administration.

Upon becoming familiar with the existing government of Louisiana, Governor Claiborne found it corrupt and almost totally decayed. The Spanish officials had lost interest in the colony which they would soon give up, and the French authorities, although instituting changes, had not had time to complete a governmental reorganization. Neglect and disorder were characteristic of every governmental department.⁵⁸ On surveying the situation, Claiborne found that the administration of justice in particular was paralyzed. Under the Spanish, the chief civil and military judicial body was the governor's court which had both original and appellate

⁵⁷Claiborne to Madison, January 2, 1804, ibid., 327-28; Claiborne to Madison, January 16, 1804, ibid., 161-62. General Wilkinson, on the other hand, suggested a "military executive magistrate" as the best suited government, Wilkinson to the Secretary of War, January 11, 1804, Carter (ed.), Orleans Territory, 159.

⁵⁸Claiborne to Madison, December 27, 1803, Rowland (ed.), Claiborne's Letterbooks, I, 312-13; Claiborne to Madison, January 2, 1804, ibid., 323.

jurisdiction. In civil and criminal cases, the governor could not make a decision without the advice of the auditor, a doctor of law. Since the Spanish governor was often ignorant of the law, and the auditor corrupt and subject to bribery, the administration of justice was cumbersome and corrupt.⁵⁹ Claiborne discovered that some cases of considerable importance had been pending for as long as twenty years before the governor's court with no decisions having been rendered. Since the testimony was in Spanish and decisions would have to be made according to Spanish law, Claiborne hesitated hearing cases.⁶⁰

To facilitate the administration of justice, at the urging of the municipal council and city's mercantile interests, in December, 1803, Governor Claiborne created a temporary court of pleas. It was to sit in New Orleans weekly and to consist of not less than seven justices appointed by the governor. Any three magistrates could sit as a court, but a majority was necessary to hand down a decision. The jurisdiction of the court extended to any civil cause involving a sum under \$3,000. In addition, each of the judges was empowered to act as a "conservator of the

⁵⁹Claiborne to the President, August 26, 1803, Carter (ed.), Orleans Territory, 20; Clark to the Secretary of State, September 8, 1803, ibid., 35-36; Gayarré, History of Louisiana, III, 583-84.

⁶⁰Claiborne to Madison, January 2, 1804, Rowland (ed.), Claiborne's Letterbooks, I, 323-24.

peace" with authority to try any civil cause embracing less than \$20, and to hear criminal offenses providing the sentence did not include a fine of over \$200 or a prison term of more than sixty days. The court could not hear cases involving disputed land titles, and all cases involving \$500 or more could be appealed to the governor. Proceedings of the new court were to be recorded in both French and English.⁶¹

Claiborne hoped, through the establishment of the court of pleas, to suspend the governor's court temporarily and thus relieve himself of a distasteful duty. However, this was not to be the case, for Claiborne found himself so harassed by litigants that beginning on February 15, 1804, he held a special weekly court.⁶² Meanwhile, complaints began to deluge the governor's office concerning the proceedings and decisions of the new court of pleas. From the planter class, chronically in debt, came charges that the court of pleas was not familiar with the Laws of the Indies, that it was made up of merchants ignorant of the entire subject of jurisprudence, and that if the court did not halt issuing executions against planters for non-payment of debts

⁶¹"Ordinance for Establishing a Court of Justice," December 30, 1803, S.D. Territorial Papers, III; Claiborne to Madison, January 2, 1804, Rowland (ed.), Claiborne's Letterbooks, I, 324-25; Claiborne to Madison, January 10, 1804, ibid., 329.

⁶²Claiborne to Madison, February 13, 1804, Rowland (ed.), Claiborne's Letterbooks, I, 372.

the great plantations of Louisiana would lie in ruins. The large planters requested that Governor Claiborne issue immediate orders to prohibit judicial seizures and sales of their lands, Negroes, and tools. The planters' spokesman, Alexandre Baudin, received no satisfaction from the Governor, so he appealed to the President of the United States, as Claiborne's superior.⁶³ The President, denying that he had authority to hear the appeal, directed that Governor Claiborne review the case himself. Claiborne upheld the decision of the court of pleas and denied Baudin's appeal.⁶⁴

Another complaint came from other debtors, who claimed that the court was too speedy in hearing and determining cases. Because of the lack of specie in Louisiana, debtors who owned sufficient property to cover their debts could not raise enough money in a short time without great sacrifice. They petitioned Claiborne to remedy these defects. He responded with a proclamation of February 27, 1804, setting a definite length of time between the issuing of a writ and the trial, and between the latter and any judicial sale that

⁶³Alexandre Baudin to the President, February 14, 1804, Carter (ed.), Orleans Territory, 187-88; President to the Attorney General, March 14, 1804, ibid., 200-201; Jefferson to Claiborne, March 18, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 118-19; Martin, History of Louisiana, 319 states the individual justices had summary jurisdiction of debts under \$100.

⁶⁴Jefferson to Claiborne, March 18, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 118-19; Claiborne to Jefferson, May 1, 1804, ibid., 119-20; Claiborne to Baudin, May 12, 1804, ibid., 144-45.

might ensue.⁶⁵ To meet objections of the people concerning the exorbitant costs of court, the Governor broadened the jurisdiction of a single justice to hear cases involving sums under \$100, rather than the original \$20.⁶⁶ Beginning in April, 1804, the court of pleas began holding monthly sessions, rather than weekly. By proclamation, Governor Claiborne ordered the justices to sit on the first Monday of each month and continue in session until all business was handled, or until they had sat for three consecutive days.⁶⁷ Later the sessions of the court were extended to six days. Finally, Claiborne attempted to control the quality of counselors at law and attorneys by requiring them to have a license from his office.⁶⁸

Even these modifications did not satisfy the Louisianians. Claiborne's attempt to create the court of pleas was premature. It would take years for the Louisianians to

⁶⁵"Ordinance," February 27, 1804, ibid., I, 389-90; Claiborne to Madison, March 2, 1804, Robertson (ed.), Louisiana Under the Rule, II, 255-56.

⁶⁶"Ordinance," March 1, 1804, Rowland (ed.), Claiborne's Letterbooks, I, 393-94; Claiborne to Bore, March 1, 1804, ibid., II, 1.

⁶⁷"Ordinance to Alter the times of holding the Court of Pleas in and for the City of New Orleans, and the better to regulate and define the single Magistrate in relation to contempt," April 27, 1804, ibid., 115-16.

⁶⁸"An Ordinance Enlarging the Monthly Sessions of the Court of Pleas for the City of New Orleans," June 6, 1804, ibid., 195; "Ordinance Regulating Attorneys," March 30, 1804, ibid., 34-35.

become accustomed to the American system of jurisprudence.⁶⁹ Nor was the governor's court well accepted by the people. Having revitalized the court in February, 1804, Claiborne began hearing civil suits and minor criminal cases. The Governor abhorred these judicial functions, as they caused him many embarrassments. He was constantly ill at ease in his courtroom because he knew little French and had no understanding of Spanish law. He avoided hearing criminal cases of a capital nature, deferring them until the judiciary of the Orleans Territory was established.⁷⁰ Patiently the Governor waited to be relieved of his judicial functions by the federal government while the Louisianians became disgruntled with a judicial system which they conceived to be ill organized and did not understand.

The second branch of government which demanded Governor Claiborne's immediate attention was the executive. Once again he had to deal with the Spanish system as it existed upon his arrival. The Spanish government had partitioned Louisiana into the following local governmental divisions: Mobile, Pensacola, Balize to New Orleans, New Orleans and the country on both sides of Lake Pontchartrain, first and second German coasts, Cabahanose, Fourche,

⁶⁹"The Code of Practice," Tulane Law Review [formerly the Southern Law Quarterly], VII (December, 1932), 83.

⁷⁰Claiborne to Madison, June 9, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 197-98.

Venezuela, Iberville, Galveztown, Baton Rouge, Pointe Coupée, Atakapas, Opelousas, Ouachita, Avoyelles, Rapide, Natchitoches, Arkansas, and Illinois. At the head of each of these districts, the governor appointed an officer of the regular troops or the militia to act as civil and military commandant. If a settlement was small there might be a citizen appointed to the civil command and a militia officer to handle military matters. These Spanish commandants were like vice-governors, having powers in their own local areas similar to those of the governor over the whole province. A civil commandant had as his primary responsibility the maintenance of peace and order in his district through a strict police. He examined passports of travelers to prevent smuggling and verified the vacancy of lands before grants were confirmed. In judicial affairs, he heard cases involving less than \$100, and when a suit embraced a large sum he collected evidence and testimony to send to the governor. He did not have authority to inflict corporal punishment except on slaves, but on notifying the governor, could arrest and confine individuals. The commandant also acted as a notary of his post by registering all sales of slaves and lands and by issuing licenses of various kinds. The duties of sheriff devolved upon him, especially that of attending judicial sales and sending the amounts collected to the capital. For performing these and many more minor duties, the Spanish commandant received no salary, unless he

had no other pay or pension, in which case he was entitled to \$100 yearly.⁷¹

Claiborne, as temporary governor, could either appoint all new commandants or replace only those who refused a reappointment under his regime. Wisely he chose the latter and initially filled only those vacancies which were vacant when he assumed office. He appointed three new civil commandants --Julien Poydras at Pointe Coupée, Lieutenant Hopkins at Atakapas and Opelousas, and Amos Stoddard in the district of Upper Louisiana--in January, 1804.⁷² The next month Claiborne commissioned John Watkins, a physician and member of the city council of New Orleans, to visit the river districts above the city for the purpose of naming commandants. Watkins was instructed to reappoint any Spanish commandant who desired to remain in office and to replace those who refused. According to his instructions, integrity and attachment to the United States were primary requisites for

⁷¹"Queries respecting Louisiana, with Answers," 1803, enclosed in Clark to the Secretary of State, September 8, 1803, Carter (ed.), Orleans Territory, 32, 28-39; Claiborne to the President, August 24, 1803, ibid., 17. In his report, Claiborne stated that there were only ten divisions under the Spanish government, viz., The Island of New Orleans, Pointe Coupée, Atakapas, Opelousas, Red River, Ouachita, Concord, Arkansas, New Madrid, and Illinois. That he was in error is shown by his later appointments.

⁷²Claiborne to Julien Poydras, January 14, 1804, Rowland (ed.), Claiborne's Letterbooks, I, 333-34; Claiborne to Henry Hopkins, January 20, 1804, ibid., 336-38; Claiborne to Amos Stoddard, January 24, 1804, ibid., 350.

the office, while talent was only desirable.⁷³

Watkins visited eight districts above New Orleans. The incumbent commandants of four--Antoine St. Armand of the first German coast, Miguel Cantrell of the first Acadian coast, Manuel Andry of the second German coast, and Thomas Villanueva of Venezuela--remained in office. In the other four districts Watkins appointed as new commandants: Joseph L. Andry on the second Acadian coast, Nicholas Rousseau in Iberville, William Wykoff in the district opposite Baton Rouge,⁷⁴ and Alexander Moril in Galveztown.⁷⁵ In addition to the commissions delivered by Watkins, Governor Claiborne appointed the following commandants: Captain Edward Turner in Natchitoches, Major Ferdinand Claiborne in Concordia, Edward Menillon [Merillon] at Rapides, Lieutenant Joseph Bowmar in Ouachita, and Charles De Lateur below the river.⁷⁶

⁷³Instructions to Watkins, February 9, 1804, Robertson (ed.), Louisiana Under the Rule, II, 309-10; Watkins' Appointment, February 9, 1804, ibid., 310.

⁷⁴This area previously formed a part of the district of Baton Rouge which was divided with the city remaining in Spanish controlled West Florida.

⁷⁵Watkins' Report, erroneously dated February 2, 1804, Robertson (ed.), Louisiana Under the Rule, II, 311-16; Watkins to Claiborne, erroneously dated February 2, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 3-8.

⁷⁶Claiborne to Edward Turner, February 25, 1804, Rowland (ed.), Claiborne's Letterbooks, I, 385-86; Claiborne to Ferdinand L. Claiborne, February 26, 1804, ibid., 388-89; Claiborne to Edward Menillon, April 9, 1804, ibid., II, 87; Joseph Bowmar to Claiborne, April 15, 1804, Carter (ed.), Orleans Territory, 223-24; Claiborne to Charles De Lateur, July 12, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 243-44.

The commandants appointed under the jurisdiction of Governor Claiborne were for the most part familiar with their areas and were men with well-established reputations among the Louisianians. The only major exceptions were the five military appointees assigned to Natchitoches, Ouachita, Concordia, Opelousas and Atakapas, and Upper Louisiana. These men were strangers in their localities. They were chosen because their commands were on the frontier.

Through Watkins' report, Governor Claiborne gained first-hand knowledge of the territory outside of New Orleans. There, too, government was disorganized and corrupted. Watkins suggested that the governor instruct commandants to revive and enforce laws neglected by the Spanish authorities such as those concerning the building and repairing of levees, roads, and bridges, the subordination of slaves, and the licensing of taverns. He reported that most thoughtful Louisianians wanted law and order restored in their areas and felt that the continuation of the commandancies was the best government for the moment. These officials could act as temporary agents for introducing American political and judicial principles into Louisiana gradually. Finally, Watkins reported some complaints of the commandants themselves concerning conditions in their districts. The local officials deplored the lack of prisons and the decaying condition of the parish churches. They objected to the small remuneration they received and the loss of revenue they experienced in such a time-consuming office. They also

complained that it was difficult to find persons willing to accept the position of constable because of the duties and small recompense of the office.⁷⁷

Accepting Watkins' report, Governor Claiborne issued instructions to the civil commandants ordering them to strictly enforce five regulations. These were laws regarding the enrolling and assembling of militia units, the regulating of slavery, the building and repairing of roads, bridges, and levees, the licensing of taverns, and the selling of liquor to slaves and Indians.⁷⁸ He made no mention of the judicial functions of the commandants, leaving them to act according to their own judgment. The regulations which Claiborne ordered enforced protected the peace and safety of the territory, but did not alter the then existing governmental system. The civil commandants continued in office until the legislative council, by an act of April 10, 1805, abolished the office and created that of justice of the peace, effective July, 1805.⁷⁹

⁷⁷Watkins' Report, erroneously dated February 2, 1804, Robertson (ed.), Louisiana Under the Rule, II, 317-21; Watkins to Claiborne, erroneously dated February 2, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 9-12.

⁷⁸Instructions to the Commandants of the Districts, n.d., Rowland (ed.), Claiborne's Letterbooks, II, 71-73.

⁷⁹An Act dividing the territory of Orleans into Counties, and establishing courts of inferior jurisdiction therein, April 10, 1805, Acts Passed at the First Session of the Legislative Council of the Territory of Orleans. . . . (New Orleans: James M. Bradford, 1805), 144-208.

Thus, in the first year of his administration, Governor Claiborne simply confirmed the status quo in Louisiana government, while he waited for a regular territorial system to go into effect. Actually he was authorized to do no more by his commission. To some Louisianians, who were expecting at least some self-government, this policy seemed strange and even disappointing.

CHAPTER IV

PROBLEMS OF TRANSITION

Notwithstanding his determination to do as little as possible until a regular government was established for Louisiana, Governor Claiborne found himself faced with problems and issues which demanded immediate action, such as the opening of the port of New Orleans, the reorganization of the militia, and regulation of public balls. At the same time, he had to deal with French and Spanish officials who lingered in New Orleans, and with refugees who daily arrived from Santo Domingo. To appease the inhabitants, who were becoming agitated over the seeming lack of interest of the United States government in the province, Claiborne chartered a bank and attempted to exclude potentially rebellious slaves from entering Louisiana. The Governor also became entangled in controversies with Louisiana's Spanish neighbors on the east and west before a territorial government was established. It was during this interim era that the people of Louisiana formed an unfavorable opinion of their governor which required years to dispel.

Immediately upon taking office, Claiborne recognized that in some fields quick action was needed to win the

attachment of the Louisianians. Commerce was the most important economic activity of New Orleans, as is shown by the import and export duties paid during the last three years of Spanish rule. In 1800 they were \$70,076, in 1801, \$89,125, and in 1802, \$117,515.¹ Yet, after the transfer, the port of New Orleans was closed until the revenue laws of the United States could be extended over it. The vessels of merchants had no authorization to fly any national flag so they were laid up in port. Capital was idle and markets for merchandise were gradually lost. Import and export duties, based on the Spanish tariff, applied to all inter-course including commerce between Louisiana and Spain which had been exempted previously. In January, 1804, the New Orleans merchants petitioned Congress to relieve their distress.² Meanwhile Claiborne, cognizant of the situation, took action to revitalize commerce in the territory. Nine days after assuming office, he issued an ordinance outlining regulations for the government of port facilities and

¹"Queries respecting Louisiana, with Answers," 1803, enclosed in Daniel Clark to the Secretary of State, September 8, 1803, Clarence E. Carter (ed.), Orleans Territory, 1803-1812 (Volume IX of Territorial Papers of the United States; Washington: Government Printing Office, 1940), 41. These figures were based on a 6% import duty and a sliding export scale.

²"Memorial to Congress from the Merchants of New Orleans," January 9, 1804, ibid., 157-58.

docking of ships at the city's wharves.³ His ordinance, however, did not reopen the port, since only Congress could effect this.

Congress was not unconscious of the need for commercial regulations in the ceded area, and as early as November, 1803, it began considering a bill to give effect to the laws of the United States in Louisiana. It passed and the President approved a law for laying and collecting import and tonnage duties in the territory. The act provided that all duties levied on intercourse between Louisiana and the United States, except those in the present act, were null and void. It annexed Louisiana east to the Perdido River to the Mississippi revenue district and created ports of entry and delivery in the ceded region. French and Spanish ships were allowed entry into the ports of Louisiana for a period of twelve years on a footing equal with those of the United States.⁴ On February 25, 1804, Congress approved a second act affecting the commerce of Louisiana. It defined as an American ship any vessel under Spanish or French registry which belonged to an American citizen or an inhabitant of the territory still residing therein at the

³"An ordinance for the better arrangement of the Shipping and Security thereof in the port of New Orleans," December 29, 1803, Dunbar Rowland (ed.), Official Letter-books of William C. C. Claiborne, 1801-1816 (6 vols.; Jackson: State Department of Archives and History, 1917), I, 320-21.

⁴United States Statutes at Large, II, 251-54.

time of the transfer. An oath of allegiance to the United States was prescribed for the owners of such vessels.⁵

The enforcement of these acts was the duty of Hore Browse Trist, Collector of the Mississippi district, who was appointed to exercise all the powers of the Spanish Collector, Treasurer, and Contador⁶ of Revenues at New Orleans on November 11, 1803. Under his commission, Trist's principal responsibility was to collect the taxes and duties previously levied by the Spanish government until March 25, 1804, when the American revenue laws would go into effect. For the monies collected, the Collector was personally accountable, although he was authorized to pay out of them the bills of Claiborne in governing Louisiana not in excess of \$10,000. Albert Gallatin, Secretary of the Treasury, warned Trist not to enforce the American laws in the Spanish claimed territory between the Mississippi and Perdido rivers, but only to prevent smuggling from that area. Gallatin urged his collector to appease the Louisianians by giving a liberal interpretation to the registry act and to deviate from strict adherence to proper forms when advisable. Finally, he asked Trist for his views on the proper means to enforce the revenue laws, especially in regard to the prevention of smuggling.⁷

⁵Ibid., 259-60.

⁶Accountant or bookkeeper.

⁷Albert Gallatin to Hore Browse Trist, November 14, 1803, Correspondence of the Secretary of the Treasury with Collectors of Customs, 1789-1833 (General Records of the

By April, 1804, Trist was familiar enough with the ceded region to recommend ways of enforcing the recently proclaimed revenue laws. Smuggling, he declared, could not be prevented altogether at that time. The fact that one bank of the Mississippi River north of the Isle of Orleans was under Spanish control made it almost impossible to prevent illicit trade from that quarter. Furthermore, the innumerable bayous, lakes, and rivers, which discharged into the Gulf of Mexico west of the Balize provided too many avenues to smugglers to be carefully guarded. Even if inspectors could be placed on these various waterways, the costs of such a service would exceed the revenue brought in. The Collector, however, did make a few suggestions which he thought practicable in at least controlling smuggling. Bayou Teche, he reported, was one of the main streams used by illicit traders to bring coffee and tafia into the province without paying the appropriate duties; therefore, it should be created into a port of delivery with the military commander acting as collector. Trist also recommended that a revenue cutter of seventy or eighty tons, well-armed and equipped, be stationed along the coast from the Balize westward to watch the mouths of Bayous Lafourche and Teche and Lake Barataria, and to intercept small armed

Department of the Treasury. File Microcopies of Records in the National Archives: No. M-178. Microfilm in possession of author), XVI, 1-2; Secretary of the Treasury to Trist, February 27, 1804, ibid., 2-8.

vessels running in spirits, coffee, salt, and slaves illegally. At the Rigolets, a second armed craft of fifteen or twenty tons should be stationed to control the illegal traffic centering in Lakes Pontchartrain, Borgne, and Maurepas. A collector should also be placed at the Balize or mouth of the Mississippi River.⁸

Following the recommendations of Trist, the Secretary of the Treasury ordered a revenue cutter constructed for service on the coast of Louisiana and authorized the collector himself to procure a vessel for use on the lakes. He empowered Trist to use boats on Bayous Teche and Lafourche and to employ as many officers at different places as he should think necessary. Gallatin insisted that smuggling must be stopped at all costs,⁹ but the government's efforts to end it were unsuccessful.

The other subject of common interest to the inhabitants of Louisiana was the establishment of a local bank. Because of the scarcity of specie, the absence of paper money, and tight credit in the colony, many Louisianians felt that a bank would greatly facilitate the transaction of business. Some of the citizens of New Orleans petitioned Governor Claiborne to establish such an institution. Although he seriously questioned his authority to charter a

⁸Trist to the Secretary of the Treasury, April 14, 1804, ibid., 235-36.

⁹Gallatin to Trist, June 4, 1804, ibid., 14.

bank, he finally did so. Claiborne stated that his primary reason for his approval of the bank was to avert a feeling of discontent which had begun to develop in the colony. A popular ordinance, he felt, would satisfy the inhabitants until a regular territorial government could be established. He found authority for his action in the fact that under the previous government the governor had power "to pass all ordinances for the improvement of the Province."¹⁰

The ordinance creating the Louisiana Bank was dated March 12, 1804. The institution's capital was limited to \$600,000 divided into 6,000 one hundred dollar shares. The capital stock could be raised to \$2,000,000 at the discretion of the directors. Subscriptions were to be opened on March 16, and shares were to be sold for \$20 cash and the remainder due in installments. The stockholders were to elect fifteen directors annually, and they, in turn, were to choose a president. The charter was effective for sixteen years.¹¹

Although the bank was popular in Louisiana, nearly \$100,000 in its stock being subscribed for in the first few

¹⁰Claiborne to Madison, March 9, 1804, James A. Robertson (ed.), Louisiana Under the Rule of Spain, France, and the United States, 1785-1807 (2 vols.; Cleveland: The Arthur H. Clark Company, 1911), II, 256-58; Claiborne to Madison, March 16, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 41-42.

¹¹"Ordinance Providing for the Establishment of a Bank," Rowland (ed.), Claiborne's Letterbooks, II, 29-33.

hours it was offered for sale,¹² the Governor's action in chartering it was severely criticized in Washington. Secretary of the Treasury Gallatin informed the President that Claiborne had exceeded his powers, had acted contrary to an act of Congress,¹³ and had probably defeated the government's plan to establish a branch of the Bank of the United States in New Orleans. Knowing that his appointment was only temporary, Claiborne should not have acted without first receiving the approval of the President and the Secretary of State. Gallatin advised the President to order Claiborne to revoke the bank charter.¹⁴

Acting on the advice of Gallatin, President Jefferson informed Governor Claiborne that the bank charter was null and void, because it conflicted with a law of Congress, and that he would have to revoke it.¹⁵ In defense of his action, Claiborne wrote spirited letters to the President, the Secretary of State, and the Secretary of the Treasury

¹²Claiborne to Madison, March 16, 1804, ibid., 41-42; Charles Gayarré, History of Louisiana (4 vols., 4th ed.; New Orleans: Pelican Publishing Company, 1965), IV, 15 states that the Louisianians did not trust the bank Claiborne established, but existing evidence does not seem to indicate this, since they bought the bank's stock.

¹³United States Statutes at Large, II, 274.

¹⁴Gallatin to Jefferson, December 13, 1803, Henry Adams (ed.), The Writings of Albert Gallatin (2nd ed., 3 vols.; New York: Antiquarian Press, 1960), I, 171; Gallatin to Jefferson, April 12, 1804, ibid., 184-85.

¹⁵President to Claiborne, April 17, 1804, Carter (ed.), Orleans Territory, 225.

restating his reasons for chartering the bank. He again stressed the necessity of appeasing the Louisianians with a measure which they universally supported. Claiborne stated that Hore B. Trist, Robert Williams, a close friend and member of the Mississippi territorial legislature, and General Wilkinson had all strongly recommended the establishment of the bank, and that Don André De Armesto, late Spanish secretary, had given his opinion that the Spanish governors had possessed authority to grant such charters in expedient cases. But, Claiborne added, the issue would soon resolve itself, since only \$140,000 worth of stock had been subscribed for, and the bank would surely die.¹⁶ The bank, however, did not fail, and Claiborne did not revoke its charter. As a matter of fact by January, 1805, the stock subscriptions had all been taken, and the first directors of the bank were chosen.¹⁷ Later the Bank of the United States also opened a branch in the city.

In addition to the questions of shipping and banking, Governor Claiborne was confronted with another serious concern--reactivating the militia of Louisiana. The Spanish

¹⁶Claiborne to the Secretary of State, May 25, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 172-74; Claiborne to Gallatin, May 23, 1804, ibid., 160-64; Claiborne to Jefferson, June 3, 1804, ibid., 187-91; Claiborne to Gallatin, June 14, 1804, ibid., 204-205.

¹⁷Louisiana Gazette (New Orleans), January 11, 1805; Claiborne to the Secretary of State, January 1, 1805, Carter (ed.), Orleans Territory, 361; Claiborne to the Secretary of State, January 13, 1805, ibid., 368.

governors had always depended upon the local militia as the primary defense of the colony, since there had never been an adequate regular force. Claiborne found that he, too, would have to rely heavily on the militia. When Laussat had taken possession of the colony in the name of the French Republic some of the local Spanish militia officers had expressed displeasure at serving under French colors. Daniel Clark, therefore, had organized a company of American volunteers to act as an auxiliary corps to keep peace and order in New Orleans. Prefect Laussat accepted their services, and presumably this American volunteer corps continued to serve throughout the twenty days of French control.¹⁸ Meanwhile, Laussat haphazardly attempted to reactivate some of the regular militia corps but was unsuccessful.¹⁹ When Claiborne became governor there was still no regularly organized militia; therefore he accepted the services of four companies of volunteers in New Orleans and armed them with muskets from the public stores.²⁰

¹⁸Clark to Claiborne and Wilkinson, November 30, 1803, Territorial Papers: Orleans Series, 1794-1813 (General Records of the Department of State. File Microcopies of Records in the National Archives: No. T-260. Microfilm in the New Orleans Public Library, New Orleans, Louisiana), II. Hereinafter cited as S.D. Territorial Papers.

¹⁹Claiborne to Madison, December 27, 1803, Rowland (ed.), Claiborne's Letterbooks, I, 313-14.

²⁰Claiborne to Madison, January 17, 1804, ibid., 339; Gayarré, History of Louisiana, IV, 16 states that the volunteer companies were a source of jealousy between the Americans and Creoles since they were exclusively composed of Americans.

Governor Claiborne's principal reason for wanting to organize some units of the regular militia in New Orleans was the lingering presence of the French and Spanish officials, with their respective military attachments, in the city long after the date for departure provided by the treaty of cession. By that agreement, the French commissioner was to have turned over all military posts to the United States, and all troops, French and Spanish, were to have quit the territory within three months after the ratification of the treaty.²¹ Since these provisions were not honored by either of the Latin countries, both Governor Claiborne and General Wilkinson were apprehensive of trouble developing among the inhabitants. They felt that the mere presence of foreign dignitaries and forces in New Orleans encouraged the partisans of France and Spain to hope that one of these nations would soon repossess Louisiana and thus to renounce and defy American authority. This hope was reinforced by rumors circulating in the city and province that the Americans would give up Louisiana to either the French

²¹"Treaty for the Cession of Louisiana," Hunter Miller (ed.), Treaties and Other International Acts of the United States of America (8 vols.; Washington: Government Printing Office, 1931), II, 502. France had ratified the treaty on May 22, 1803, and the United States on October 21, 1803. Ratifications were exchanged on the latter day in Washington, D. C. Thus France and Spain had until January 21, 1804, to evacuate Louisiana in conformity with the treaty. Ibid., 498.

or Spanish.²²

As long as foreigners remained in the territory, innumerable incidents occurred involving the American temporary government and either the French or Spanish authorities. Despite the recurring disturbances due to their presence, the representatives and troops of Spain and France remained in New Orleans until March and April, 1804. By March 11 a small part of the Spanish contingent had left the city. About a month later they were followed by nearly three hundred Spanish troops, who embarked for Pensacola, permitting the Americans finally to occupy the military buildings in New Orleans.²³ However, the three top-ranking Spanish officials, the Marquis de Casa Calvo, Ex-Governor Don Juan Manuel de Salcedo, and Ex-Intendant Don Juan Ventura Morales remained in the city, together with a few minor officials, twelve or fifteen officers, and some troops.²⁴ Casa Calvo and Morales

²²Claiborne to Madison, February 6, 1804, Rowland (ed.), Claiborne's Letterbooks, I, 363-64; Wilkinson to Dearborn, February 14, 1804, Letters Received by the Secretary of War, Main Series, 1801-1870 (Records of the Office of Secretary of War. File Microcopies of Records in the National Archives: No. M-221), II. Hereinafter cited as L.R., S.W., M.S.; Claiborne to the Marquis de Casa Calvo, July 25, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 266; Claiborne to Madison, July 25, 1804, ibid., 266-67.

²³Claiborne and Wilkinson to the Secretary of State, March 11, 1804, Carter (ed.), Orleans Territory, 199; Claiborne to the President, April 15, 1804, ibid., 221-22; Claiborne to Madison, April 10, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 89.

²⁴Claiborne to Madison, May 10, 1804, Robertson (ed.), Louisiana Under the Rule, II, 264-65; Claiborne to Madison, May 13, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 146-47.

stayed during the entire period of temporary government, the former acting as agent for Spain although without official recognition from the United States government. Claiborne disliked the presence of the two Spaniards in the city, believing that as long as they remained they would arouse a certain amount of loyalty among the older inhabitants.²⁵ Secretary of State Madison agreed that they were a nuisance and had no right to retain their commissions. He suggested that Claiborne use October 1, 1804, the date for the beginning of the future territorial government, to let the two Spaniards know in a discreet way that they were no longer welcome in the territory.²⁶ Meanwhile, the French Prefect, Laussat, sailed for Guadaloupe. General Wilkinson also departed shortly thereafter for New York considering his duties as a commissioner at an end.²⁷

It was during this trying time that Governor Claiborne attempted to effect at least a partial reactivation of the militia. There was one issue concerning the voluntary corps which Claiborne resolutely avoided although he had recognized it as early as December, 1803. It was whether to reactivate

²⁵Claiborne to Madison, July 25, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 266-67; Claiborne to Madison, September 30, 1804, ibid., 340.

²⁶Madison to Claiborne, August 28, 1804, The Papers of James Madison, 1723-1846 (Division of Manuscripts, Library of Congress), XVII.

²⁷Claiborne to the Secretary of State, April 25, 1804, Carter (ed.), Orleans Territory, 234.

the two companies of free people of color who had served under the Spanish and French governments. The Governor feared that recognition of them might be an affront to the white people of Louisiana and other southern states, but also that a refusal of their services might turn them into an army of malcontents in the heart of the city.²⁸

Claiborne decided to seek instructions from Washington, but before he received them, the free people of color tendered an offer of their services as a volunteer corps. Claiborne delayed accepting their offer until he could hear from the Secretary of War.²⁹ Henry Dearborn advised the Governor to accept the services of the Negroes, either by continuing or renewing their organization, but not to increase it, and, if possible, to decrease it inconspicuously. He warned Claiborne to be extremely careful in selecting officers for the corps and suggested presenting them a flag as a token of

²⁸General Wilkinson felt that the free Negroes were more to be trusted than many of the whites because they consistently wore the eagle on their hats and seemed sincerely attached to the United States government. Wilkinson to the Secretary of War, January 11, 1804, ibid., 160. Henry E. Chambers, A History of Louisiana (3 vols.; Chicago: The American Historical Society, 1925), I, 436 states that Claiborne as a Southerner could not bring himself to arm Negroes.

²⁹Claiborne to Madison, December 27, 1803, Rowland (ed.), Claiborne's Letterbooks, I, 313-14; "Address of the Free People of Color," January, 1804, Carter (ed.), Orleans Territory, 174-75; Claiborne to Madison, January 17, 1804, Rowland (ed.), Claiborne's Letterbooks, I, 339-40.

the government's confidence.³⁰ The Governor accordingly appointed two responsible whites, Major Michael Fortier and Major Lewis Kerr, to the command of the battalion of free people of color and, on June 21, 1804, presented it a splendid flag with thirteen red stripes.³¹

Next Claiborne considered the reactivation of the regular militia which consisted of conscripts. Apologizing to Colonel Deville Degoutier Bellechasse, commandant of the militia, for not organizing it instead of the volunteer companies, Claiborne blamed the delay on the absence of official communications from his superiors, but assured Bellechasse that the government placed full confidence and trust in his officers.³² Then on March 30, 1804, the Governor ordered Major Eugene Dorsier, second in command of the militia, to come to New Orleans as soon as possible to effect its organization.³³ In April, Claiborne ordered a complete census of all white male inhabitants between the

³⁰Henry Dearborn to Claiborne, February 20, 1804, Letters Sent by the Secretary of War, Relating to Military Affairs, 1800-1889 (Records of the Office of Secretary of War. File Microcopies of Records in the National Archives: No. M-6. Microfilm in possession of author), II, 176-77. Hereinafter cited as L.S., S.W., M.A.

³¹Claiborne to Dearborn, June 22, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 217-18.

³²Claiborne to Colonel Bellechasse, March 17, 1804, ibid., 49-50.

³³Claiborne to Major Eugene Dorsier, March 30, 1804, ibid., 71.

ages of eighteen and forty-five for militia assignment, and by June, reported to the Secretary of State that he was in the process of completing the temporary organization of the militia. The volunteer units were incorporated into one militia battalion with a troop of horse attached to it, but few of the city militia were yet organized.³⁴ The militia made their initial public appearance on the first Fourth of July celebrated in Louisiana. One unit, the Orleans Volunteers, paraded with the regular troops. At the same time, Claiborne presented a flag to the as yet unorganized city militia at ceremonies in St. Louis cathedral.³⁵ Throughout his entire temporary governorship, Claiborne had to rely heavily on the volunteer units since he never successfully effected a reorganization of the regular militia. This would have to await the establishment of a territorial government.

With practically no organized militia and the French and Spanish still in New Orleans, Governor Claiborne found his job difficult. The first hostile incident of importance in the city involving the French and Americans took place at the public balls. These amusements, one of the favorite recreational pastimes of the Creoles, were held twice weekly

³⁴Claiborne to the Mayor and Municipality of New Orleans, April 19, 1804, ibid., 71; Claiborne to Madison, June 28, 1804, ibid., 231.

³⁵Claiborne to Madison, July 5, 1804, ibid., 236-37.

during the winter season in the public ballroom of New Orleans. The balls were open to any white male willing to pay the very nominal admission fee of fifty cents. Thus a heterogenous group of "gentlemen" usually congregated at these social affairs. Under the Spanish regime, the governor had acted as the regulator of the balls, but Claiborne had turned this duty over to the municipality.³⁶ The first sign of disturbance was a small fracas which took place at one of the balls early in January, 1804. According to the governor, it originated over the question of whether the French or American dances should have a preference at the ball. He paid little attention to the affair, regarding it as insignificant.³⁷

But then on January 22, 1804, a second and more serious disturbance occurred over the same question. Claiborne and Wilkinson were of the opinion that the trouble began because a country dance, known locally as a Contra Danse Anglaise, was played. The Frenchmen felt that the playing of such a number indicated a partiality for their enemy, the English. While the Governor was leading the dance, the music was interrupted suddenly by cries of "Waltz Waltz" from a group of French officers and recently arrived immigrants who were also stamping their feet and knocking

³⁶Claiborne to Madison, January 31, 1804, ibid., I, 354-55.

³⁷Claiborne to Madison, January 10, 1804, ibid., 331.

sticks on the floor.³⁸ The American commissioners and the master of ceremonies attempted to restore order when a cotillion was begun and the crowd temporarily quieted. But during the dance General Wilkinson arrested one Gautier as a leader of the disturbance. Disorder erupted again when the French, singing the "Marseillaise," moved to protect their arrested fellow citizen and the Americans, singing "Hail Columbia," went to the aid of the General. Later in the evening Wilkinson arrested another Frenchman and the disturbance flared up again. Finally, the ball resumed, and Wilkinson spent the rest of the evening assuring the Frenchmen in attendance that the Americans felt no animosity or ill-feeling toward them.³⁹

To prevent a repetition of such disturbances, the municipal council adopted a number of regulations governing

³⁸Two days after the disturbance, Claiborne reported to Madison that the French force in the city was considerable, consisting of only eight or ten officers and a few sailors but they were disorderly. He also added that there were from twenty to thirty young adventurers from Bordeaux and Santo Domingo in the city who were admirers of Napoleon and who deliberately tried to undermine American control. Claiborne to Madison, January 24, 1804, ibid., 345-46.

³⁹Deposition of James Proffit, January 31, 1804, S.D. Territorial Papers, III; deposition of William Brown, January 26, 1804, ibid.; deposition of George Pollock, January, 1804, ibid.; deposition of William Simpson, January, 1804, ibid.; deposition of George W. Morgan, January 31, 1804, Carter (ed.), Orleans Territory, 180-82; Claiborne to Madison, January 31, 1804, Rowland (ed.), Claiborne's Letter-books, I, 352-54; Claiborne and Wilkinson to the Secretary of State, February 7, 1804, Carter (ed.), Orleans Territory, 177-80.

future balls. All gentlemen, except the governor, general officers, and officers of the guard, were to check their weapons at the door before entering the ballroom. Two municipal officers were assigned to attend each ball to keep order and settle any differences that might arise. The governor was requested to provide a guard of fifteen men and one officer from the militia to be placed at the disposal of the ball commissioners. Dances were to be played in a prescribed order--two French quadrilles, one English quadrille, and one waltz--which was to be strictly observed.⁴⁰ This action returned harmony to the public amusements, but it certainly did not foster good relations between the American officials and the French and Creoles. To many of them the American officials seemed weak, vacillating, and incapable of dealing with trouble, while the American commissioners felt that the disturbance was the work of Laussat and other Frenchmen who wanted to disrupt American control.⁴¹

At the time Governor Claiborne and General Wilkinson

⁴⁰Afternoon session, January 25, 1804, Conseil De Ville: Proceedings of Council Meetings, No. 1, Book I (Typescript Copy. City Archives, New Orleans Public Library, New Orleans, Louisiana); General Orders, January 28, 1804, Rowland (ed.), Claiborne's Letterbooks, I, 352; Claiborne to Etienne Boré, January 28, 1804, Governor's Office: American Documents, 1804-1814 (City Archives, New Orleans Public Library, New Orleans, Louisiana). Hereinafter cited as Governor's Office: American Docs.

⁴¹Claiborne and Wilkinson to the Secretary of State, February 7, 1804, Carter (ed.), Orleans Territory, 179-80.

were engaged in the ball tumult, they were confronted with another serious problem. On January 16, 1804, they were advised by Daniel Clark of the arrival of a French transport at the Balize carrying troops and refugees from Santo Domingo. People were fleeing the island colony because of a Negro revolution against the Creole planters which had been raging for years. Napoleon had tried unsuccessfully to put it down in 1802 and 1803. The Express carried one hundred and twenty-five refugees, many of whom were convalescing from a putrid fever. The ship sorely lacked supplies and was in bad condition as to rigging, masts, and cables. The ship's captain sought permission to proceed to New Orleans for repairs and provisions.⁴²

The American commissioners refused the captain's request for several reasons. France and England were once again at war and the United States had proclaimed its neutrality. During the conflict, England blockaded Nicholas Mole, the port from which the Express escaped. Any American action, other than relieving the ship's immediate distress and allowing it to proceed to France, might constitute a violation of American neutrality. If the vessel was permitted to enter New Orleans, the French crew and passengers would desert, adding to the already trouble-making French

⁴²Wilkinson to the Secretary of War, January 16, 1804, ibid., 165; Claiborne and Wilkinson to the Secretary of State, January 17, 1804, ibid., 166-67; William Cooper to Wilkinson, January 20, 1804, S.D. Territorial Papers, III.

population. The refugees, since they had previously been infected with an epidemic fever, might also spread it to the city.⁴³ The American commissioners detained the Express at Plaquemines until February 27, when a French national brig, the Argo, dropped downriver from New Orleans, picked up the refugees, and sailed for France.⁴⁴ Later other ships carrying refugees from Santo Domingo sought asylum in New Orleans. Having received an opinion from Secretary of State Madison that American neutrality would not be violated by giving the Frenchmen asylum, Claiborne allowed them to enter the city either to await passage to France or settle permanently in the territory.⁴⁵

In addition to refugees, many of the ships from Santo Domingo carried slaves from the islands destined for sale in New Orleans. The slave trade had been permitted formerly by the Spanish authorities to foster the interests of the colony, and they had continued to condone it subsequent to the retrocession to France while they still governed the province. The original Spanish royal edict had limited the trade to

⁴³Claiborne to Madison, January 17, 1804, Rowland (ed.), Claiborne's Letterbooks, I, 352-55; Wilkinson to Dearborn, January 31, 1804, L.R., S.W., M.S., II; Claiborne and Wilkinson to the Secretary of State, February 7, 1804, Carter (ed.), Orleans Territory, 177-80.

⁴⁴Claiborne and Wilkinson to Madison, February 27, 1804, Robertson (ed.), Louisiana Under the Rule, II, 292.

⁴⁵Madison to Claiborne, March 12, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 93-94.

Spanish bottoms with Spanish masters, but while awaiting the transfer of Louisiana to France, the Spanish officials extended the privilege to ships of French registry. At least three French vessels, with a total of 463 African slaves, had entered the colony after its retrocession to France.⁴⁶ Claiborne abhorred this barbarous traffic but, upon learning that the Spanish government had permitted it, felt that he could not legally object to it. Yet, neither could he bring himself officially to authorize the trade. When the first slave ship arrived, in January, 1804, with a cargo of fifty Africans for sale, the Governor simply permitted it to land its valuable cargo.⁴⁷ The slave trade not only continued but, in fact, increased during the period of temporary American control. The reason was that Louisianians felt that slaves were essential to the prosperity of the province, and, learning that Congress had prohibited the trade after October 1, 1804, determined to bring in as many as possible before that date.⁴⁸

Although the governor could not prohibit the slave trade, he did attempt, by using the police powers of the state, to exclude the importation of dangerous slaves,

⁴⁶Gilbert Leonard to Claiborne, January 25, 1804, Robertson (ed.), Louisiana Under the Rule, II, 244-45.

⁴⁷Claiborne to Madison, January 31, 1804, Rowland (ed.), Claiborne's Letterbooks, I, 352-53.

⁴⁸Claiborne to Madison, May 8, 1804, Robertson (ed.), Louisiana Under the Rule, II, 263.

especially those who had participated in the revolution in Santo Domingo. In this effort, Claiborne was not alone, for the municipal council of New Orleans had urged him to restrict the entrance of undesirable Negroes and mulattoes.⁴⁹ To accomplish this control, Claiborne ordered Lieutenant Colonel Constant Freeman, who had replaced General Wilkinson in command of the United States troops at New Orleans,⁵⁰ to dispatch a subaltern officer and sixteen to twenty men to the Balize. The officer was instructed to board every ship passing up river to ascertain and report the number of Negroes on board, the vessel's place of origin, the name or names of its owners, and the importer to whom its cargo was consigned.⁵¹ This precaution was intended to prevent the landing of slaves between the Balize and Plaquemines where a second examination of the ships was to be made, and in fact had been made since February. The vessels were to be detained at Plaquemines until the governor should give his permission for them to pass on upriver. If the two reports,

⁴⁹Claiborne to Etienne Boré, February 8, 1804, Governor's Office: American Docs.

⁵⁰Lieutenant Colonel Freeman with three additional companies of troops was ordered to New Orleans on January 31, 1804, and arrived there early in June. He was a good choice for commander since he spoke French and practiced the Roman Catholic religion. Henry Dearborn to Lieutenant Colonel Constant Freeman, January 31, 1804, L.S., S.W., M.A., II, 161; Claiborne to Dearborn, June 9, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 199.

⁵¹Claiborne to Freeman, July 16, 1804, ibid., 250-51; Claiborne to Freeman, July 17, 1804, ibid., 254-55.

one from the Balize and the other from Plaquemines, did not agree, it would indicate that the slaves had been landed along the lower banks of the river presumably for the purpose of secretly slipping them into New Orleans.⁵² Once a vessel reached the city, it would be examined by the physician of the port and a member of the Conseil De Ville before being permitted to land its human cargo.⁵³ Even with these precautions, it is very doubtful that many illicitly imported slaves were kept out of Louisiana.

While the American government was encountering trouble from the French, it also found cause for complaint about some of the activities of the Spanish in Louisiana. Generally they were well behaved, but their mere presence was, once again, a cause of worry to Governor Claiborne. Trouble might develop between them and other segments of the population. Such an occasion occurred in February, 1804, when an inebriated Spanish guard at Casa Calvo's house attacked a passing American sailor on the street. Several Americans intervened and rescued the sailor, but in the meantime a menacing crowd gathered. Only the hasty removal of the

⁵²General Orders, February 11, 1804, General James Wilkinson's Order Book, December 31, 1796-March 8, 1808 (File Microcopies of Records in the National Archives: No. M-654. Microfilm in possession of author), 456-57; Claiborne to Captain Nicoll, July 25, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 262-63.

⁵³Claiborne to the Mayor and Municipality of New Orleans, April 25, 1804, Governor's Office: American Docs.

guard averted a serious brawl.⁵⁴

A more serious difference developed between the American and Spanish officials over the Texas-Louisiana boundary and the possession of West Florida. Since the treaty of cession only stipulated that the ceded region should have the "same extent it had when France possessed it,"⁵⁵ it was inevitable that a conflict should develop, for no definite boundary between Louisiana and Texas had ever been drawn. There was also the problem of whether West Florida was a part of Louisiana or not. The Spanish officials in New Orleans declared West Florida had never been a part of Louisiana, and their countrymen continued to govern it.⁵⁶ The Americans pressed their claim to West Florida east to the Perdido River.⁵⁷ Upon learning that the American revenue act of February 24, 1804⁵⁸ extended to all the lands and streams to and including the Perdido River, Governor Vincente Folch of Spanish West Florida immediately protested

⁵⁴Claiborne to Madison, February 4, 1804, Rowland (ed.), Claiborne's Letterbooks, I, 358-59.

⁵⁵"Treaty for the Cession of Louisiana," Miller (ed.), Treaties and Other International Acts, II, 500.

⁵⁶Wilkinson to the Secretary of War, January 3, 1804, Carter (ed.), Orleans Territory, 151; Claiborne to Madison, January 24, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 178-79.

⁵⁷Jefferson to Claiborne, July 7, 1804, The Papers of Thomas Jefferson, 1651-1826 (Division of Manuscripts, Library of Congress), CXL.

⁵⁸United States Statutes at Large, II, 251-54.

to Claiborne. He declared that by the Treaty of San Ildefonso of 1800 and the Treaty of Madrid of 1801, the Spanish government receded to France the province of Louisiana, and this recession could not include West Florida, since it did not become Spanish until twenty years later than Louisiana itself.⁵⁹ Governor Claiborne objected to the Spanish governor's assertion and declared that the question belonged to the respective governments.⁶⁰ Within a few weeks, however, rumors began to circulate in New Orleans that the territory west of the Mississippi River would be turned over to Spain in exchange for West Florida. Governor Claiborne accused the Marquis de Casa Calvo of initiating such reports and expressed the hope that this official would soon leave Louisiana to remove the source of the disturbing rumors. Secretly General Wilkinson was recommending this policy to Spanish officials.⁶¹

Actually the Spanish authorities encountered all the trouble they could handle in West Florida, for, according to Colonel Don Carlos De Grand Pré, Spanish Commandant of Baton Rouge, the people of his district had exhibited a seditious spirit ever since the transfer of Louisiana to the United

⁵⁹Governor Vincente Folch to Claiborne, May 1, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 182-85.

⁶⁰Claiborne to Folch, June 2, 1804, ibid., 185-86.

⁶¹Claiborne to the Marquis de Casa Calvo, July 25, 1804, ibid., 265-66; Claiborne to Madison, July 25, 1804, ibid., 266-67; Chambers, History of Louisiana, I, 474.

States. The Marquis de Casa Calvo asked Claiborne's cooperation in the restoration of order in West Florida, but all he received was the American governor's assurance that the United States wished to maintain peace and harmony with everyone, and that no American official had anything to do with the unrest in Florida.⁶²

Even with Claiborne's assurance to the Spanish authorities, excitement in West Florida did not subside; in fact, it increased with the revolutionary activities of the three Kemper brothers--Samuel, Nathan, and Reuben--and their followers who attempted to free West Florida from Spanish control in August, 1804. Again Casa Calvo called upon Claiborne for aid by ordering the acting governor of Mississippi Territory and the commandant of Pointe Coupée to prevent Americans from giving refuge to the rebels. To this Claiborne agreed, but again declared that the American government had nothing to do with the uprising.⁶³ In September the Marquis reported that the Kemper brothers and other rebel leaders had escaped across the boundary line into Pinckneyville, Mississippi Territory, and asked for Claiborne's aid in apprehending them.⁶⁴ The Governor refused

⁶²Claiborne to Madison, June 27, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 227-28.

⁶³Marquis de Casa Calvo to Claiborne, August 11, 1804, ibid., 308-309; Claiborne to the Marquis de Casa Calvo, August 27, 1804, ibid., 309-10.

⁶⁴Marquis de Casa Calvo to Claiborne, September 13, 1804, ibid., 331-32.

stating he had no authority to do so.⁶⁵ Insurgency in West Florida proved to be a problem to the Spanish government until the United States annexed the area in 1810.

Claiborne's unwillingness to cooperate with the Spanish authorities in West Florida may have been prompted by the trouble he was having with their fellow countrymen on the western boundary of Louisiana. While asking for aid to put down a rebellion in West Florida, the Spaniards were themselves inciting rebellion and disorder in western Louisiana. Natchitoches, the most westerly post occupied by the Americans in Louisiana, was the only military establishment to guard the common border of Spanish Texas and American Louisiana; yet it did not come into the possession of the Americans until April 26, 1804.⁶⁶ That day Captain Edward Turner, newly appointed commandant of the Natchitoches district, presided over ceremonies marking its transfer from Spain to France and then to the United States. Shortly thereafter, Turner was visited by the Spanish commandant of Nacogdoches who desired an agreement to restrict travel across the Texas-Louisiana border only to persons with written passports from one of the two commandants. Turner

⁶⁵Claiborne to Casa Calvo, September 13, 1804, ibid., 330-31.

⁶⁶Wilkinson claimed that the delay was due to his having to wait for reinforcements from Mobile before he could detach an officer and troops to Natchitoches, Wilkinson to Dearborn, March 11, 1804, L.R., S.W., M.S., II.

hastily replied that Americans were free to go wherever they wished, and that foreigners could enter and leave American territory at will.⁶⁷ Governor Claiborne, in the interest of maintaining good relations with the Spanish in Texas, rebuked the American officer and ordered him to comply with the wishes of the Spaniards in regard to passports and especially to prevent Americans from going into Spanish territory in search of horses.⁶⁸

Governor Claiborne's action, however, did not restore peace along the frontier of Texas and Louisiana. In July, 1804, Captain Turner reported to Claiborne a troop movement in eastern Texas, and particularly a buildup at Nacogdoches and Adaes, about twenty-one miles from Natchitoches. He revealed that the commandant of Nacogdoches by decree had forbidden all citizens from paying debts owed Americans and had sent two spies into Natchitoches to reconnoiter the area for a strategic point commanding the American works where two hundred Spanish troops could be stationed. The American commandant further relayed the information that a decree had been issued by the King of Spain instructing the commandants of Mexico to use every means available to ruin the neighboring American province. The royal edict particularly

⁶⁷Edward Turner to Claiborne, May 1, 1804, Carter (ed.), Orleans Territory, 238-39.

⁶⁸Claiborne to Turner, May 13, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 145-46.

commanded the Spanish authorities to encourage the desertion of slaves from American plantations by offering them freedom, land, and instruction by Roman Catholic priests in His Catholic Majesty's dominions.⁶⁹ Upon receiving these reports, Claiborne urged watchfulness on the part of his representative in Natchitoches. However, he ordered no reinforcements there, because he did not believe the Spaniards had hostile intentions, and, even if they did, he did not have enough troops available to make that place secure. He did not want to drain the military strength in New Orleans, for, he was convinced that if an attack should come from the West, a simultaneous one would surely come from Pensacola aimed at New Orleans, and his first duty was to protect the capital.⁷⁰ Lieutenant Colonel Constant Freeman, in command of the American troops at New Orleans, agreed with the governor that the Spaniards had no aggressive intentions, but merely wished to hold the territory they claimed until permanent boundaries should be established.⁷¹

Although the governor remained calm upon hearing reports of the hostile intentions of the Spaniards, there

⁶⁹Turner to Claiborne, July 16, 1804, S.D. Territorial Papers, IV; Turner to Claiborne, July 13, 1804, ibid.; Turner to Claiborne, July 12, 1804, ibid.; Turner to Claiborne, July 27, 1804, ibid.

⁷⁰Claiborne to Madison, July 25, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 268-69.

⁷¹Freeman to Wilkinson, July, 1804, L.R., S.W., M.S., II.

was anxiety in Natchitoches. Immediately the large planters and syndics, local police officers, of the district gathered to draw up a petition to Commandant Turner. In it they declared that their property and persons were jeopardized by the recent Spanish decree offering refuge and protection to runaway slaves, that the news of the Spanish offer had reached their slaves, and that the whole area would lie in ruins if the slaves rose up against their masters. The petitioners prayed Turner to enforce a strict police on the slaves and to forward their remonstrance, with his support, to Claiborne.⁷² Turner, in reply, ordered militia patrols constantly to move up and down the river at night to keep a strict watch on the Negroes. In reporting the incident to Governor Claiborne, Turner spoke very unfavorably of the inhabitants of his district. Describing them "ignorant almost to Stupidity," the Commandant stated that these people could not be depended upon for support unless their property was at stake. According to Turner, they readily believed all the evil hearsay which the Spaniards and their sympathizers spread throughout the district. Among these reports were statements that the Americans were "mere dogs," that they did not "live like Christians," and that they would keep the planters poor by very heavy taxation. In speaking

⁷²"Petition to Edward Turner by the Inhabitants of the District of Natchitoches," July 29, 1804, Carter (ed.), Orleans Territory, 273-74.

of the Spaniards, the commandant declared that they distorted every incident which they could to lessen the people's confidence and affection for the United States. "In all their conduct," Turner asserted, "they proceed precisely as if they were already at War, or just on the Verge of it."⁷³ The commandant's statements convinced General Wilkinson, who was then in Fredericktown, Maryland, that military reinforcements should be sent to Natchitoches to prevent the Spanish from occupying strategic positions which would give them an advantage in any future hostility that might break out along the Texas frontier.⁷⁴

By August, 1804, Claiborne could no longer ignore the alarming reports from Natchitoches. He, therefore, notified Captain Turner that the policy of offering refuge and protection to runaway slaves was itself an act of hostility, but he could not conceive of a responsible power like Spain resorting to such tactics. The Governor felt that there must be some misunderstanding somewhere, but until the matter was cleared up, he ordered Turner to use the regular troops under his command and the militia to impose a strict police in the district. He also requested an immediate report from any inhabitant who lost a slave or slaves, containing the age,

⁷³Turner to Claiborne, July 30, 1804, *ibid.*, 271-73; Turner to Wilkinson, July 30, 1804, L.R., S.W., M.S., II.

⁷⁴Wilkinson to Dearborn, September 4, 1804, L.R., S.W., M.S., II.

description, and value of the runaway or runaways.⁷⁵ Meanwhile the Governor contacted Casa Calvo for a statement of Spanish policy in regard to runaway slaves. The Marquis assured him that Spain did not encourage slaves to flee from their masters and that Turner's information must be erroneous. However, he promised to write the commandant at Nacogdoches and the Spanish ministry for clarification of the entire affair.⁷⁶ Claiborne accepted the Marquis's reply and shortly thereafter the Spanish authorities returned some Negroes who had fled into their territory.⁷⁷ Tranquility returned to the people of the district temporarily.

Harmonious relations, however, were not restored between the two governments. Another dispute arose in the late summer of 1804 over the loyalty of the Indians in the Red River area. Captain Turner acquired information through Billy Graham, a Coushatta Indian, that the Aish Indians, who were friendly with the Spanish, in July had tried to force the chief of the Coushatta to move his tribe into Spanish country. Upon the latter's refusal, the Aish chief became enraged and threatened to annihilate the Coushatta and their

⁷⁵Claiborne to Turner, August 10, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 303-304.

⁷⁶Claiborne to the Marquis de Casa Calvo, September 1, 1804, ibid., 315-16; Marquis de Casa Calvo to Claiborne, September 5, 1804, ibid., 319-20; Claiborne to the Marquis de Casa Calvo, September 7, 1804, ibid., 326-27.

⁷⁷Turner to Claiborne, November 28, 1804, S.D. Territorial Papers, IV.

American protectors when war should come. According to Graham's account, a general Indian council was planned for the near future at which the Spaniards would be in attendance to persuade all the neighboring tribes to begin hostilities against the Americans. For this purpose, the Spaniards were supposed to have seven hundred horses and mules to give the Indians as a bribe for their help.⁷⁸ Turner determined to use Graham as an American agent and ordered him to attend the council and report to him the results.⁷⁹ Claiborne approved Turner's action and warned the commandant to be extremely solicitous in his treatment of the red men who visited Natchitoches. Although the commandant was not to distribute presents to visiting Indians, he could, according to the governor, give them rations. Claiborne was by this time thoroughly convinced that the Spanish would do anything to disturb American possession of Louisiana.⁸⁰ But the Governor's powers to deal with the problem were limited by the nature of his temporary appointment. Any permanent action for bettering American-Indian relations would have to await the erection of a territorial government.

This long awaited event occurred on October 1, 1804.

⁷⁸ibid., V. Deposition of William Graham, September 9, 1804,

⁷⁹Turner to Claiborne, September 10, 1804, Carter (ed.), Orleans Territory, 292.

⁸⁰Claiborne to Turner, September 28, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 342.

In the previous March, Congress had created a regular territorial government which was to take effect on the first day of the following October,⁸¹ and President Jefferson appointed Claiborne the territory's first permanent governor.⁸² Despite the difficulties he had experienced as interim governor, he looked to the future with bright expectations. Most of the old problems would reappear, for they had never been solved, but simply delayed. However, in his new position, Claiborne would at least have a regular territorial government to assist him, and he would have a clear statement of his powers.

⁸¹"An Act for the Organization of Orleans Territory and the Louisiana District," March 26, 1804, Carter (ed.), Orleans Territory, 202-13.

⁸²Madison to Claiborne, August 30, 1804, The Papers of James Madison, XXVII.

CHAPTER V

NASCENT TERRITORIAL GOVERNMENT

While Claiborne as interim governor was seeking to win the allegiance of the people of Louisiana, the Congress of the United States was deliberating on a form of government for the ceded region. On November 28, 1803, Robert Wright of Maryland proposed that the Senate appoint a committee to draft a bill for the government of Louisiana. Early in December, the Senate considered his motion and appointed a committee consisting of John Breckinridge of Kentucky as chairman, Robert Wright, James Jackson and Abraham Baldwin of Georgia, and John Quincy Adams of Massachusetts.¹ Senator Breckinridge, close friend and political ally of President Jefferson, already had a bill drafted which the committee accepted and reported to the Senate on December 30.² Breckinridge's bill was almost identical in its major provisions with suggestions for the

¹Annals of Congress, 8 Cong., 1 sess., 106, 211.

²Ibid., 223. John Q. Adams opposed Breckinridge's form of government in the committee meetings. Charles Francis Adams (ed.), Memoirs of John Quincy Adams: Comp-
prising Portions of His Diary from 1795-1848 (12 vols.; Philadelphia: J. B. Lippincott & Co., 1874-1877), I, 278-79.

government of Louisiana which President Jefferson had previously sent him. The President drafted the principal sections of the bill, although he never admitted it because of Federalist criticism and opposition, and his men guided it through Congress.³

Senate consideration of the Breckinridge bill began on January 16, 1804.⁴ Its most controversial sections dealt with the legislature, the judiciary, and slavery. The measure vested all legislative powers in a governor and a legislative council of twenty-four to be named annually by the governor. Councilors had to own real estate in the territory, to have resided there at least one year, and could hold no office of profit under the territory or the United States. The governor, with the consent of the legislative council, could alter, modify, or repeal existing laws or pass new ones. He was empowered to convene,

³James E. Scanlon, "A Sudden Conceit: Jefferson and the Louisiana Government Bill of 1804," Louisiana History, IX (Spring, 1968), 144-45; Noble E. Cunningham, Jr., The Jeffersonian Republicans in Power, Party Operations, 1801-1809 (Chapel Hill: The University of North Carolina Press, 1963), 96-97; Henry Adams, History of the United States of America (9 vols.; New York: C. Scribner's Sons, 1889-1891), II, 121 and Henry E. Chambers, A History of Louisiana (3 vols.; Chicago: The American Historical Society, 1925), I, 447 states that Secretary of State Madison played a major role in framing the Louisiana bill.

⁴Annals of Congress, 8 Cong., 1 sess., 233-34. In the first session of the 8th Congress the Republicans dominated the Senate 25 to 9 Federalists and in the House 103 to 39, Cunningham, Jeffersonian Republicans in Power, 71.

prorogue, and dissolve the legislative council.⁵ The first major alteration of the original bill to be proposed was an amendment, introduced by Thomas Worthington of Ohio, giving the legislative council the right to elect a non-voting delegate to Congress. Opposing it, Jonathan Dayton of New Jersey argued that the legislative council could provide better information on the territory than a delegate to Congress, while Timothy Pickering of Massachusetts objected that Louisiana was not incorporated into the Union and only a state had the right to be represented in Congress. Samuel White of Delaware and Stephen Bradley of Vermont asserted that the delegate would really be a representative of the President, since he would be selected by the legislative council which was to be appointed by the President. James Jackson of Georgia felt that it was too soon to give the Louisianians representation, while Dayton declared the proposal to be unconstitutional since only a state was entitled to representation in Congress. John Quincy Adams opposed the amendment on the basis of its unconstitutionality as an unwarranted extension of the executive power. William Cocke of Tennessee, Breckinridge, and Samuel Smith of Maryland, denied that the amendment infringed upon the

⁵"A Bill Erecting Louisiana into Two Territories and providing for the temporary government thereof," Territorial Papers, 1789-1873 (Records of the United States Senate. File Microcopies of Records in the National Archives: No. M-200. Microfilm in possession of author), V. Hereinafter cited as Senate Territorial Papers.

Constitution, since the delegate could only deliberate and not vote, and urged its approval. Worthington's amendment failed by a vote of 18 to 12.⁶

Another long debate developed in the Senate over the mode of selecting the legislative council. On January 24, 1804, A. B. Venable of Virginia offered an amendment to the original bill authorizing the people of the territory to elect annually forty-eight men from whom the governor would select twenty-four councilors. Jackson, supported by Samuel Smith, William Nicholas of Virginia, and Pickering, opposed the amendment on the ground that the Louisianians were too ignorant to be able to elect a council wisely. Samuel Maclay of Pennsylvania, Cocke, and Anderson favored the amendment, with Anderson arguing that the original bill violated the third article of the treaty of cession. Cocke and Anderson declared that the Louisianians were free and entitled to some self-government. The amendment was defeated by the close vote of 15 to 14.⁷ A final attempt was made to

⁶Annals of Congress, 8 Cong., 1 sess., 233-34; Everett Brown (ed.), William Plumer's Memorandum of Proceedings in the United States Senate, 1803-1807 (New York: Macmillan Co., 1923), 107-109; Everett Brown, The Constitutional History of the Louisiana Purchase, 1803-1812 (Volume X of University of California Publications in History, Berkeley: University of California, 1920), 103-104.

⁷Annals of Congress, 8 Cong., 1 sess., 238-39; Brown (ed.), William Plumer's Memorandum, 110-11; Brown, Constitutional History, 107; Adams (ed.), Memoirs of John Quincy Adams, I, 292. Adams states that the vote was 14 to 14.

modify the legislative section on February 10, when Senator Anderson introduced a motion to provide a representative legislature for Orleans as soon as the population should reach a certain figure. The Anderson amendment also met defeat by a vote of 19 to 5.⁸ A modified version of the amendment was reconsidered three days later, but was again rejected by a vote of 13 to 13.⁹

The bill's provision concerning the right of trial by jury was the subject of some discussion. It guaranteed trial by jury in all criminal prosecutions which were capital and in all cases, civil and criminal, brought before the Superior Court if either of the parties requested it.¹⁰ An amendment was proposed to extend the right of jury trial to all criminal prosecutions, but it lost by a vote of 16 to 11.¹¹

The Breckinridge measure's section on slavery elicited a vigorous debate. The bill as originally presented apparently prohibited the importation of foreign-born slaves into the territory. Senator Jackson of Georgia opposed this restriction because, he argued, the soil of Louisiana could not be cultivated without slaves. Two other Southerners,

⁸Annals of Congress, 8 Cong., 1 sess., 250-51.

⁹Ibid.

¹⁰"A Bill for Erecting Louisiana into two Territories and providing for the temporary government thereof," Senate Territorial Papers, V.

¹¹Annals of Congress, 8 Cong., 1 sess., 235; Brown (ed.), William Plumer's Memorandum, 109.

Jesse Franklin of North Carolina and Breckinridge, however, declared themselves opposed to slavery altogether, principally because of the danger of slave revolutions.¹² Dayton, who had traveled through Louisiana, argued that the territory could never be inhabited unless slavery was permitted, because white men could not work in that inhospitable climate. He also argued that if only domestic slaves were imported into Louisiana only the worst specimens would be sent there from the other states. John Smith of Ohio, supporting the bill, asserted that if slaves were permitted to be brought in from outside the United States, they would become so numerous as to present an internal danger to the new territory. He, however, favored the domestic slave trade, because it would help to distribute the slaves throughout the nation, thus lessening the danger of insurrection in any particular area.¹³

After a lengthy debate, the original slavery provision of the Breckinridge bill was deleted. On January 26, Senator James Hillhouse of Connecticut introduced an amendment prohibiting the importation of slaves into Louisiana from outside the United States.¹⁴ Senator Jackson argued

¹²Brown (ed.), William Plumer's Memorandum, 11; Brown, Constitutional History, 107-108.

¹³Brown, Constitutional History, 108-109; Brown (ed.), William Plumer's Memorandum, 111-12.

¹⁴Annals of Congress, 8 Cong., 1 sess., 240.

against the prohibition on the ground that it would violate the treaty of cession and the right of the people of Louisiana to decide the slavery issue for themselves. Other Senators opposed the measure because it was not strong enough, or because it could not be effective until 1808. Despite the lively opposition, the Senate approved the Hillhouse amendment 21 to 6.¹⁵

Encouraged by the passage of his slave trade amendment, four days later, Hillhouse proposed the gradual abolition of slavery in Louisiana, but it was rejected by a vote of 17 to 11.¹⁶ Following the failure of his abolition amendment, Hillhouse moved to limit the importation of slaves from the states of the Union to persons who were actually settling in Louisiana and were bona fide owners of them at that time.¹⁷ After a long debate, this amendment passed by a vote of 18 to 11.¹⁸

On February 18, the final vote on the Breckinridge bill was taken in the Senate. Before the vote, Senator John Quincy Adams delivered a plea for its defeat. Claiming that the measure violated the Constitution and the treaty of

¹⁵Ibid., 240; Brown, Constitutional History, 113-15; Brown (ed.), William Plumer's Memorandum, 117-22.

¹⁶Annals of Congress, 8 Cong., 1 sess., 241-42; Scanlon, "A Sudden Conceit," La. Hist., IX, 154; Brown (ed.), William Plumer's Memorandum, 124.

¹⁷Annals of Congress, 8 Cong., 1 sess., 242.

¹⁸Ibid., 244.

cession, Adams charged that it set up a colonial-type government for Louisiana.¹⁹ Despite Adams's opposition, the Senate approved the bill by a vote of 20 to 5. The negative votes were cast by Adams, Hillhouse, Simeon Olcott and William Plumer both of New Hampshire, all Federalists, and David Stone of North Carolina, a Republican.²⁰

On February 28, the House of Representatives began considering the amended Senate bill in a committee of the whole. As in the Senate, opposition developed principally to the fourth section of the bill describing the legislative powers. Michael Leib of Pennsylvania objected to the power of proroguing the council given to the governor, while his colleague, Andrew Gregg, argued against the power given to the President to appoint the councilors and proposed that after a year the people be accorded the right to elect their own legislators.²¹ Joseph B. Varnum of Massachusetts agreed with Leib, stating that the people have the right to elect their own councilors in keeping with the provisions of the treaty of cession.²² His colleague, William Eustis, declared that the bill was not inconsistent with the principles of

¹⁹Brown (ed.), William Plumer's Memorandum, 143-46.

²⁰Annals of Congress, 8 Cong., 1 sess., 256.

²¹Ibid., 1054-55; Charles Gayarré, History of Louisiana (4 vols., 4th ed.; New Orleans: Pelican Publishing Company, 1965), IV, 39-56 presents a thorough coverage of the House debates.

²²Annals of Congress, 8 Cong., 1 sess., 1056.

the Constitution, and that, despite the promises of the treaty of cession, the people of Louisiana were not ready for self-government and were not guaranteed it until Louisiana became a state. John B. Lucas of Pennsylvania and James Holland of North Carolina supported the position of Eustis.²³ Matthew Lyon of Kentucky argued that it was ludicrous to keep the people in slavery until they "learned to think and behave like freemen," while Speaker Nathaniel Macon of North Carolina opposed the legislative provisions of the bill as "unknown to the Laws of the United States."²⁴ George W. Campbell of Tennessee declared it created "a complete despotism." John C. Jackson of Virginia, James Sloan of New Jersey, John Smilie of Pennsylvania, and John Boyle of Kentucky all favored giving the Louisianians at least some voice in their government. On February 28, the House voted 80 to 15 to reject the controversial legislative section of the Senate bill.²⁵ On March 14, John B. Earle of South Carolina introduced a substitute for the defeated section. It called for vesting the legislative powers in an elective council after the passage of a year. The House accepted Earle's proposal by a vote of 58 to 42.²⁶

²³Ibid., 1057-58, 1061-62, 1072-73.

²⁴Ibid., 1060, 1062.

²⁵Ibid., 1063, 1070-76, 1078.

²⁶Ibid., 1187-89, 1191-94; Journal of the House of Representatives of the United States (Washington: Gales and Seaton, 1826), IV, 652-53.

The judicial section of the Senate bill also came under attack when George W. Campbell proposed that the fifth section of the bill be modified so that all criminal and all civil cases involving a sum over \$20 would be tried by jury. The Campbell amendment met defeat.²⁷ Later, however, another amendment to extend trial by jury to all criminal cases was introduced and passed by a vote of 44 to 37.²⁸

On March 17 another important amendment was added to the Senate bill. Joseph H. Nicholson of Maryland proposed that the measure be limited to two years. The House agreed and then approved the entire bill as amended by a vote of 66 to 21.²⁹ The twenty-one negative votes were cast by representatives from all sections of the nation. Eleven were from New England, three from the Middle States of New York and New Jersey, and seven were from the South. Both political parties were represented in the dissenting votes with the Republicans principally from Virginia and Maryland and the Federalists from New England.³⁰

While Congress was considering the government bill, the people of Louisiana became agitated as they learned of

²⁷Annals of Congress, 8 Cong., 1 sess., 1128-30.

²⁸Ibid., 1197; Journal of the House of Representatives of the United States, IV, 658-59.

²⁹Annals of Congress, 8 Cong., 1 sess., 1199; Journal of the House of Representatives of the United States, IV, 661-62.

³⁰Ibid.

the debates during January, February, and March, 1804. By March opposition to the government bill in Louisiana became vocal principally because news reached New Orleans that the Senate had passed a law forbidding the foreign importation of slaves into the province. In the opinion of many inhabitants, farmers and merchants alike, such an action was a death blow to the prosperity of Louisiana. Furthermore, they could not understand why South Carolina could import slaves and Louisiana could not. Some of the Louisianians were ready to take a stand against this apparently discriminatory legislation. They simply awaited a call to action which finally came in March, 1804.³¹

A Mr. Tupper, a Bostonian and recent arrival in New Orleans from France, called a mass meeting of the people of New Orleans and the surrounding area for Monday, March 12, 1804, for the purpose of preparing a memorial to Congress containing their grievances and for electing an agent to convey it to Washington. In Claiborne's opinion, Tupper was no more than an adventurer taking advantage of the agitated climate of the province for his own personal gain. The Governor disliked intensively the idea of a public assembly in the city for fear that it would lead to riots and disorder,

³¹Claiborne to Madison, March 10, 1804, Dunbar Rowland (ed.), Official Letterbooks of William C. C. Claiborne, 1801-1816 (6 vols.; Jackson, State Department of Archives and History, 1917), II, 25.

but he did not attempt to prevent it.³² The meeting took place on March 12, and, according to the Governor's own account, was well attended by respectable merchants of the city and farmers of the outlying areas. Few Americans took part in it, most were Frenchmen. Certainly the presiding officer, Etienne Boré, was a well known and respected inhabitant of Louisiana. Besides being one of the most successful planters, he was also mayor of New Orleans, having been appointed to that position by Laussat and continued in it by Claiborne. Boré entertained strong opinions on how Louisiana should be governed and had previously written President Jefferson advising him that the future governors of Louisiana should be men who knew French as well as English, and that the province be given immediately a second grade territorial government, with an elective assembly, until its population should reach a sufficient number to entitle it to statehood.³³

The Mayor opened the meeting of March 12 by proposing that those assembled elect one or several delegates to go to

³²Ibid., 25-26.

³³Author's footnote to a letter from Claiborne to Madison, March 10, 1804, James A. Robertson (ed.), Louisiana Under the Rule of Spain, France, and the United States, 1785-1807 (2 vols.; Cleveland: The Arthur H. Clark Company, 1911), II, 260; Claiborne to Madison, March 16, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 42-43; Clarence E. Carter (ed.), Orleans Territory, 1803-1812 (Volume IX of Territorial Papers of the United States, Washington: Government Printing Office, 1940), 185-86.

Washington to present their sentiments on the proper form of government for Louisiana, and especially their dismay at the abolition of the slave trade and the absence of commercial regulations. Then he asked for any other propositions from the group whereupon Jean Noel Destréhan, a planter, rose to suggest that the assembly authorize the district commandants to call their inhabitants together for the purpose of electing delegates to a future convention to be held in New Orleans. This body would select two agents to go to Congress to present their views. It would also choose a permanent committee to advise and instruct the two delegates from time to time.³⁴

The assembly approved Destréhan's resolutions with loud applause, but without any debate. Then Tupper arose and delivered a passionate oration on the supposed oppression of the people and charged that Congress was neglectful and uninformed of the interests of Louisiana. He concluded by saying that he would support Destréhan's resolutions. John Watkins addressed the meeting in more moderate terms to oppose Destréhan's proposals. Calling for prudence and temperance, he disapproved of them since they would incite the people to mass gatherings and disorder. To counteract Tupper's remarks, he explained the workings of the American

³⁴Author's footnote to a letter from Claiborne to Madison, March 10, 1804, Robertson (ed.), Louisiana Under the Rule, II, 260-61; Claiborne to Madison, March 16, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 43.

government and the necessity for long deliberation in Congress for the production of wise laws. In regard to the slave trade, Watkins assured the meeting that Governor Claiborne had already informed Congress of the sentiments of the Louisianians, and it had probably already decided the question. If, however, the inhabitants still wanted to express their opinions, declared Watkins, he had no objections as long as it was done in a moderate and prudent way. He, therefore, suggested that a three-man committee be appointed to draw up a memorial to Congress. This document should be presented to a future gathering for its approval, and then be transmitted to the Governor who, in turn, would forward it to Congress. Watkins's proposal was adopted unanimously, and a committee consisting of Watkins, John F. Mericult, and James Pitot was appointed to draft the memorial.³⁵

Governor Claiborne was elated with the outcome of the meeting. He predicted that either the memorial would never

³⁵Claiborne to Madison, March 16, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 43-46. To the author's knowledge, Tupper does not appear in any other records of the territory except in relation to this meeting. Watkins was a native of Kentucky who had been in Louisiana several years. He spoke French, Spanish, and English and because of this was employed in the Governor's office. Claiborne hoped to have him appointed secretary of the territory, but to no avail. He did, however, hold several important positions, such as physician of the port, member of the first legislative council, and mayor of New Orleans. Claiborne to the President, April 15, 1804, Carter (ed.), Orleans Territory, 222-23; Chambers, History of Louisiana, I, 444.

be framed, or, if it was, another meeting would not be assembled to approve it. Once again, however, he informed his superiors in Washington that the Louisianians felt very strongly that the slave trade should be continued, that the recently passed revenue bills, the tonnage act and registry law, would greatly please them, and for the first time he recommended that the people be given some voice, if only an indirect one, in governing themselves and possibly a delegate to represent them in Congress without the right to vote.³⁶

Meanwhile Congress took under final consideration the Louisiana government bill. On March 17, after approving the bill with amendments, the House returned it to the Senate. That body rejected all the House's important amendments and also reduced the period during which the measure was to be in force from two years to one.³⁷ When the bill was returned to the House, it agreed to accept the Senate version except the deletion of its proposal for an elective council for Orleans after one year. The measure then went to a conference committee of the two chambers, where the House amendment calling for an elective council was also dropped. On March 23, after a short debate, the House accepted the committee report³⁸ and passed the bill, as did the Senate on

³⁶Claiborne to Madison, March 16, 1804, Rowland (ed.), Claiborne's Letterbooks, 46-47.

³⁷Annals of Congress, 8 Cong., 1 sess., 288-90.

³⁸Ibid., 1229-30; Journal of the House of Representatives of the United States, IV, 678-79.

the same day.³⁹ Three days later, President Jefferson signed the bill erecting Louisiana into two territories and providing a temporary government for them.⁴⁰

The act of March 26, 1804, partitioned Louisiana into two territories--the District of Louisiana and Territory of Orleans. Orleans Territory consisted of the Isle of Orleans and the area west of the Mississippi River and south of the thirty-third parallel from the Mississippi west to the western boundary of the ceded region. This area included the present state of Louisiana without the Florida parishes and with no definite western boundary. The government of this new territory was to consist of a governor, a secretary, three judges, and a legislative council all to be appointed by the President, with all but the council subject to approval by the Senate. The governor was to be the chief executive officer and commander-in-chief of the territorial militia. He was empowered to grant pardons for offences against the territory and reprieves for offences against the United States, and to appoint all civil and militia officers not otherwise provided for. The governor had to reside in the territory, and his term of office was three years unless

³⁹Annals of Congress, 8 Cong., 1 sess., 296-97; Nathan Schachner, Thomas Jefferson: A Biography (2 vols.; New York: Appleton-Century-Crofts, 1951), II, 757.

⁴⁰Journal of the House of Representatives of the United States, IV, 690.

sooner removed by the President. His annual salary was \$5,000.⁴¹

The governor was to be assisted by a secretary appointed for four years at an annual salary of \$2,000. His duties, under the direction of the chief executive, were to record and preserve the papers and proceedings of the governor's office and the acts of the governor and legislative council, and to transmit copies of the actions of the executive department to the President every six months. In case of a vacancy in the governorship, the office devolved on the secretary.⁴²

The law-making power was vested in a legislative council of thirteen "of the most fit and discreet" residents of the territory. Its members were to be appointed by the President annually from among persons who had resided in the territory at least one year, owned real estate therein, and held no office of profit under either the territorial or United States government. The governor was given the power to repeal or modify the laws in effect at the beginning of the new government by and with the consent of the legislative council. The governor and council could also enact new laws. The governor was responsible for publishing the laws and for

⁴¹"An Act for the Organization of Orleans Territory and the Louisiana District," March 26, 1804, Carter (ed.), Orleans Territory, 202-203, 205-206.

⁴²Ibid., 203-204, 206.

transmitting them to the President from time to time. He, in turn, was to present them to Congress for its approval. Neither the governor nor legislative council could make original grants of land, tax the lands of the United States, or interfere with land claims within the territory. The governor was empowered to convene or prorogue the council. The members of the legislative council were to be paid \$4.00 a day while in session.⁴³

All judicial power, as stipulated by the act, was vested in a Superior Court and in such inferior courts and justices of the peace as should be established by the legislature of the territory from time to time. Judges were to hold office for four years and to receive a salary of \$2,000 a year. The Superior Court, consisting of three judges, any one of whom constituted the court, was given original and appellate jurisdiction in all civil cases involving \$100 or more and in all criminal cases with exclusive jurisdiction in those concerned with capital crimes. The Superior Court was to meet on the first Monday of every month and continue in session until all business was completed. In criminal cases of a capital nature, the trial was to be by a jury of twelve men; in all other cases, either civil or criminal, trial should be by jury if either of the parties requested it. The act created, in addition

⁴³Ibid., 204, 206.

to the Superior Court, a district court with one judge to sit in New Orleans four times annually. He was to receive the same compensation as the Superior Court justices. It further provided for an attorney for the United States and a district marshal to be appointed by the President, and it extended the writ of habeas corpus to the inhabitants of the new territory.⁴⁴

In addition to creating a framework of government, the act establishing the Territory of Orleans also contained provisions concerning slavery. It prohibited any person or persons from importing or bringing in slaves from without the United States, or causing such persons to be brought in, or knowingly aiding or assisting in their importation. Upon conviction in any competent court of the territory, violators were subject to a fine of three hundred dollars for each slave so imported, as well as forfeiture of the slave, who was to receive his freedom. The statute also outlawed the importation of slaves from any place in the United States, if such slaves had been brought into the nation after May 1, 1798. The penalty for doing so was again three hundred dollars per slave. The act further stated that no slave could be introduced into the territory unless he was the property of a United States citizen who was actually settling in the area. Any slave brought in contrary to this

⁴⁴Ibid., 205-206, 208-209.

stipulation was automatically to receive his freedom.⁴⁵

Finally the act dealt with the delicate question of the validity of land titles. It provided that all grants of land the titles to which rested in the government of Spain at the date of the Treaty of San Ildefonso were null and void. However, any grant or proceeding concerning land actually settled by December 20, 1803, was exempted from legal nullification provided it did not include more than one square mile of land plus any further quantity generally allowed a wife and family under Spanish law and custom. Anyone encroaching on lands belonging to the United States, upon conviction in a proper court, was to be subject to a fine of up to \$1,000 and imprisonment for up to twelve months. To remove such trespassers the President was given power to use military force if necessary. He was also authorized to treat with the Indians east of the Mississippi River for an exchange of their lands for those west of the river belonging to the United States.⁴⁶

The act was to be effective October 1, 1804, and until the end of the next session of Congress thereafter.⁴⁷ The Louisiana government act of 1804 as finally passed by Congress did not differ considerably with the original bill introduced

⁴⁵Ibid., 209-10.

⁴⁶Ibid., 211-13.

⁴⁷Ibid., 213.

by Senator John Breckinridge.⁴⁸ Congress made minor changes in the legislative and executive provisions, and limited the act to one year. The Breckinridge bill, in turn, substantially incorporated President Jefferson's ideas on the government of Louisiana.⁴⁹

The Louisiana government act differed in two relatively minor respects from the legislation creating the Territory Northwest of the Ohio and Territory of Mississippi. The Northwest Ordinance contained a freehold requirement for governor, secretary, and judges which was absent from the Louisiana act. The act of 1804, on the other hand, was the first territorial organic law to provide for the establishment of a district court.⁵⁰

The major differences between the Northwest and Louisiana acts involved the sections on legislative power and slavery. The Northwest ordinance gave the law-making power, restricted to adopting laws from the original thirteen states, to the governor and judges with a provision that when the population reached 5,000 free adult male

⁴⁸"A Bill for Erecting Louisiana into two Territories and providing for the temporary government thereof," Senate Territorial Papers, V.

⁴⁹Scanlon, "A Sudden Conceit," La. Hist., IX, 145.

⁵⁰"An Ordinance for the Government of the Territory of the United States North West of the River Ohio," July 13, 1787, Clarence E. Carter (ed.), The Territory Northwest of the River Ohio, 1787-1803 (Volume II of Territorial Papers of the United States, Washington: Government Printing Office, 1934), 41-44.

inhabitants they could elect representatives to a general assembly and when the free population reached 60,000 they could apply for statehood. While the Louisiana act contained no such future guarantees of an elected assembly or statehood, it gave the people an appointed legislative council with the power to modify existing laws or make new ones from the beginning. The Northwest Ordinance also provided that the legislature had the right to elect a non-voting delegate to Congress, but this privilege was not extended to Orleans. The territorial government of Mississippi was like that of the Northwest Territory, except in regard to slavery. The Northwest Ordinance prohibited slavery altogether, while the Mississippi act prevented only the foreign importation of slaves. The Louisiana act not only prohibited the foreign importation of slaves into Orleans, but also severely restricted their importation from other states of the Union.⁵¹

Although the Louisiana act differed from previous territorial laws, it agreed considerably with the recommendation of Governor Claiborne who felt that "for the present a local and temporary Government for Louisiana upon principles somewhat Similar to our Territorial Government in their first

⁵¹Ibid., 42-49; "An Act for the Government of the Mississippi Territory," April 7, 1798, Clarence E. Carter (ed.), The Territory of Mississippi, 1798-1817 (Volume V of Territorial Papers of the United States, Washington: Government Printing Office, 1937), 18-22.

grade be established."⁵² General Wilkinson expressed even stronger doubts about the Louisianians' ability and willingness to govern themselves, when he suggested to the Secretary of War that a military personage should be placed at the head of the government.⁵³ The Louisiana act was not strictly in accord with the ideals of Jeffersonian democracy, but it was in harmony with the recommendation of the Governor of Louisiana and it dealt adequately with a unique problem--an area heavily populated with foreigners who were strangers to the workings of republican government.⁵⁴

The Congressional action did not silence opposition in Louisiana which had been displayed first in the meeting of March 12, 1804. Less than a month later, anonymous inflammatory handbills were posted clandestinely at the market house in New Orleans during the night. The first inviting the people to insurrection and representing the "United States as a wicked devour'ing Nation" appeared on

⁵²Claiborne to Madison, January 10, 1804, Rowland (ed.), Claiborne's Letterbooks, I, 330.

⁵³Wilkinson to the Secretary of War, January 11, 1804, Carter (ed.), Orleans Territory, 159. Wilkinson was probably thinking of himself as military governor. James Ripley Jacobs, Tarnished Warrior: Major-General James Wilkinson (New York: The Macmillan Company, 1938), 215.

⁵⁴Some Louisianians, especially merchants and planters, were accustomed to having a considerable influence in local government through the Cabildo and syndics under the Spanish. They were not as politically immature as the Americans seemed to think.

April 7, 1804, and, upon discovery, was immediately taken down. Although some of the Creoles wanted to offer a reward for the disclosure of its author, Claiborne merely increased the nightly patrols in the city, and ordered the volunteer corps held in readiness. On April 8, the Spanish troops departed from New Orleans without incident.⁵⁵ One week later, another insurrectionary handbill appeared on the market house which once again aroused little excitement. In reporting the second incident to the President, Claiborne declared that its literary style was similar to that used in France during the Revolution, so he concluded that its author was a recent arrival in the city.⁵⁶ The Governor did not fear radical action on the part of the natives, even though they continued dissatisfied, unless they were incited by "adventurers" with restless and revolutionary dispositions who were pouring into the territory daily.⁵⁷

Governor Claiborne was probably correct in his appraisal of the Louisianians, for they continued to depend upon meetings and remonstrances to express their feelings. On June 1, 1804, a second meeting of merchants and planters

⁵⁵Claiborne to Madison, April 8, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 85; Claiborne to Madison, April 11, 1804, ibid., 91.

⁵⁶Claiborne to the President, April 15, 1804, Carter (ed.), Orleans Territory, 223.

⁵⁷Claiborne to the President, May 29, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 174-76.

was held specifically to voice a protest against some of the provisions of the law creating the Territory of Orleans, a copy of which had reached New Orleans by this time. According to the Governor, about twenty-five residents of New Orleans attended the session. They included Etienne Boré, who had resigned as mayor, James Pitot, a respectable French merchant, Evan Jones, an American merchant who had resided in New Orleans some thirty-five years, Daniel Clark, ex-American consul, and Edward Livingston, a recently arrived lawyer from New York.⁵⁸ The last three were, of course, prominent Americans who were assuming the leadership of the opposition to the territorial law. The delegates decided to send another remonstrance to Congress.⁵⁹

The memorial which resulted from this meeting was probably the work of Edward Livingston aided by Evan Jones and Daniel Clark. It was the most precise statement of the grievances of the Louisianians to reach Congress. Initially exultant at the prospect of being incorporated into the

⁵⁸Characterization of New Orleans Residents, July 1, 1804, Carter (ed.), Orleans Territory, 250, 252; Evan Jones and Labeare, Characterization, Letters of Application and Recommendation During the Administration of Thomas Jefferson, 1801-1809 (General Records of Department of State. File Microcopies of Records in the National Archives: No. M-148. Microfilm in possession of author), I.

⁵⁹Claiborne to Madison, June 3, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 190-91; James Pitot and Edward Livingston to Claiborne, June 1, 1804, Carter (ed.), Orleans Territory, 241-42; Claiborne to the Secretary of State, June 3, 1804, ibid., 242-43.

American Union, with its guarantees of personal liberty, protection of property, and representative government, according to the memorial, the people of Louisiana were soon disillusioned. For, instead of the free and representative government which had been promised, they found themselves under a governor who held all executive, legislative, and judicial powers and from whose decrees and acts there was no appeal. Their judicial system had been abolished and replaced by a potpourri of American, French, and Spanish jurisprudence expounded in a foreign language which neither the judges nor people understood. Daily expecting this disorder and confusion to be relieved by wise and prudent Congressional action, the people had patiently accepted their deplorable situation, although with declining enthusiasm for the American system. But now, declared the memorial, the time had finally arrived for Louisianians to express their grievances, for the recent act of Congress providing them with a territorial government, like the previous one, not only violated the nation's promises in the treaty of cession, but also the principles and provisions of the Declaration of Independence, the Constitution, the state constitutions, and the very fabric of American democracy. Reciting the executive, legislative, and judicial provisions of the act, the petitioners compared its outrages against liberty to those of the British in the pre-revolutionary period. Here as then were taxation without representation,

executive control of the legislature, and lack of an independent judiciary.⁶⁰

The memorial also decried the false information and erroneous impressions which had been disseminated throughout the United States concerning the character of the Louisianians. They, contrary to these reports, were not ignorant and incapable of governing themselves. They were, in fact, better acquainted with their own needs and interests than were any person or persons whom the President or Congress might appoint as their governors. The petition concluded with a list of the most important grievances of the inhabitants, mentioning particularly the introduction of the English language, the division of Louisiana into two distinct territories, and the ban on the importation of slaves. It prayed Congress to eradicate these wrongs by repealing the act for the government of Louisiana and providing, as soon as expedient, measures for the incorporation of Louisiana into the Union as a state.⁶¹

⁶⁰"Memorial Presented by the Inhabitants of Louisiana to the Congress of the United States, in Senate and House of Representatives Convened," Senate Territorial Papers, V; American State Papers, Miscellaneous, I, 396-99; Adams (ed.), Memoirs of John Quincy Adams, I, 315 states that Livingston admitted being the author of the memorial in a letter to Wilkinson; Alc  e Fortier, Louisiana: Comprising Sketches of Counties, Towns, Events, Institutions, and Persons in Cyclopedic Form (3 vols.; Atlanta: Southern Historical Association, 1909), I, 177 also says Livingston was author of the memorial.

⁶¹"Memorial Presented by the Inhabitants of Louisiana to the Congress of the United States, in Senate and House of Representatives Convened," Senate Territorial Papers, V;

The memorial was presented to a meeting of about two hundred and fifty citizens on July 1, 1804, and was adopted unanimously. They at the same time selected a committee of twelve men to circulate it throughout the districts for the purpose of obtaining signatures. Some 2,000 heads of families signed the petition.⁶² The memorialists also elected three agents, Pierre Derbigny, Jean Noel Destréhan, and Pierre Sauvé, to carry the remonstrance to Congress. It is significant that, although the memorial was framed by

Everett S. Brown in "The Orleans Territory Memorialists to Congress, 1804," The Louisiana Historical Quarterly, I (January, 1917), 99-102, indicates that this memorial was the result of the March meeting of Louisianians and states that Jones, Livingston, Pitot, and Petit were elected a committee to prepare it. This interpretation is mistaken, for in his letter of March 16, 1804, describing the March meeting Claiborne noted that Watkins, Pitot, and Mericult were elected a three-man committee for drafting a memorial. This was the one referred to by Brown rather than the June memorial. Claiborne to Madison, March 16, 1805, Rowland (ed.), Claiborne's Letterbooks, II, 45-46.

⁶²Claiborne to Madison, July 1, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 233-34; Claiborne to the President, July 1, 1804, Carter (ed.), Orleans Territory, 246-47; Hatch Dent to James H. McCulloch, July 14, 1804, ibid., 265-66. Claiborne and Dent disagreed on the numbers present at the July 1 meeting and on the action they took. Dent claimed two hundred and fifty citizens attended and adopted the memorial unanimously; Claiborne said one hundred and forty men signed the memorial after the meeting. Claiborne also reported the delegates to Congress were to be elected at another meeting planned for one week later; Dent claimed that they were elected at the meeting of July 1. Both men agree that few Americans were involved in the incident. Francois-Xavier Martin, The History of Louisiana From the Earliest Period (2nd ed.; New Orleans: Pelican Publishing Company, 1963), 325 states that the twelve-man committee also collected contributions to defray the expenses of the three agents.

Americans, it was presented to Congress by Frenchmen whose backing would give it substantial support among the people, as well as impress the national government. The three delegates did not sail from New Orleans until October 5, 1804, and the petition did not reach the floor of Congress until December.⁶³

While the memorial was being prepared for Congress, an English-speaking segment of the population drew up a counter-memorial. It proclaimed that the inhabitants were not dissatisfied with their government and expressed confidence that the territory would be admitted into the Union as soon as possible. At the same time, the petitioners prayed that when statehood was achieved English be established as the legal language and that American citizens upon becoming Louisiana residents be guaranteed the same privileges and immunities as citizens of other states. Even though many Creoles supported it, only English-speaking citizens were allowed to sign the document. Although its authors were unknown, Benjamin Morgan, a well-established merchant, was one of the prominent Americans who played a large role in circulating it for signatures. Morgan allowed the remonstrance to be placed in his store where it would be easily accessible to the public. The remonstrance, signed by two

⁶³Louisiana Gazette (New Orleans), October 5, 1804; footnote to letter from Claiborne to the Secretary of State, July 13, 1804, Carter (ed.), Orleans Territory, 261-62.

hundred and thirty-seven Americans, was presented to Congress on November 29.⁶⁴

The free Negroes, irritated at not being permitted to participate with the whites in the deliberations which produced the memorial being delivered to Congress, decided to hold a meeting to draft one of their own in June. To publicize it, one of the free Negroes brought an announcement to a local newspaper. It stated that the purpose of the meeting was to discuss the rights of the free Negroes as well as the propriety of petitioning Congress. Upon obtaining a copy of the announcement, the mayor and city council branded it an "incendiary address" which was "a provocation to rebellion to demand equal citizenship with the white,"⁶⁵ and excitedly brought it to the governor with a request that he take steps to protect the city from the potential danger. To the anxious appeal of the council, Governor Claiborne replied that he would take all necessary precautions to insure the continued safety and peace of Louisiana, and in return requested that the council quiet the fears of the whites and rumors that were spreading among them.⁶⁶ Upon

⁶⁴Louisiana Gazette, October 26, 1804, January 18, 1805.

⁶⁵Session of July 7, 1804, Conseil De Ville: Proceedings of Council Meetings, No. 1, Book I (Typescript Copy, City Archives, New Orleans Public Library, New Orleans, Louisiana).

⁶⁶Session of July 11, 1804, ibid.; Claiborne to James Pitot, July 10, 1804, Governor's Office: American Documents, 1804-1814 (City Archives, New Orleans Public Library, New Orleans, Louisiana).

investigating the cause of the unrest among the free blacks, Claiborne refused to punish the mulatto who brought the address to the newspaper or its author. Instead he discreetly called in nine of the most influential free Negroes and, in the presence of the mayor, dissuaded them from holding the meeting, and received from them assurances of a pacific disposition and attachment to the government. The Governor felt that there was no real danger of insurrection, although he noted that as long as the slave trade was allowed such dangers would continue to exist.⁶⁷

As dissatisfaction with the actions of the federal government continued to mount in Orleans Territory, Governor Claiborne, who would be commissioned permanent governor December 12, 1804, was coming under attack by some of the inhabitants of the territory. The first indication from the pen of Claiborne that any opposition or party, as he called it, was developing against him came late in February, 1804. Claiborne attributed this group's opposition to his having blocked their efforts to obtain lucrative public offices. As ringleaders of the group, he identified Edward Livingston and Daniel Clark, especially the latter. Both, he charged, had ridiculed his stubborn refusal to use tyrannical methods, such as imprisonment and banishment, in dealing with

⁶⁷Claiborne to Madison, July 3, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 234-35; Claiborne to Madison, July 7, 1804, ibid., 239; Claiborne to Madison, July 12, 1804, ibid., 244-45.

malcontents and had charged him with incompetency and mismanagement. They used every means available to make him unpopular with the citizens, and failing in this, they began circulating rumors that he was out of favor with the President and would soon be relieved of the governorship.⁶⁸

In defense of his governorship, Claiborne answered the criticism of his temporary administration as stated in the memorial of 1804. In regard to the charge that the English language had been introduced into the provincial courts, Claiborne stated that he had done everything in his power to lessen the problem of language barriers. In most cases he had chosen men who spoke both French and English for the court of pleas and in his own court he employed an interpreter. Loudly rejecting the charge that a military government had been established under his authority, Claiborne declared that he had always been very solicitous of keeping the civil and military authority completely separated. The governor damned the licentiousness of the press in stirring up discontent over the memorial, but he

⁶⁸Claiborne to the President, February 25, 1804, Carter (ed.), Orleans Territory, 190-91; Claiborne to the Secretary of State, January 3, 1804, ibid., 242-43; in Adams (ed.), Memoirs of John Q. Adams, I, 315 Wilkinson stated that Claiborne gave "great dissatisfaction" in office and was unfit for the governorship; Adams, History of the United States, III, 300 states that Clark, Jones, and Livingston were American leaders of opposition; Gayarré, History of Louisiana, IV, 103, names Clark and Livingston as leaders of American opposition.

refused to interfere with its liberty.⁶⁹

Claiborne's complaint against the local press resulted from the fact that the newspapers had begun to debate the memorial of 1804. On July 24, the Louisiana Gazette published it.⁷⁰ Immediately one of its competitors, the Union, replied with an article which denounced the memorial's request for statehood on the grounds that additional taxation would be required to support a state government. Since the Union was the official organ for printing his decrees and the laws of the United States, many persons assumed it reflected the governor's views. The Gazette printed an item supporting the demands of the memorial and disproving that a state government would be more expensive.⁷¹ Governor Claiborne was greatly distressed by these exchanges in the papers because he felt that they would lead to continued political discontent. He also feared that they would have a detrimental effect on his reputation in Louisiana and Washington. As tension and dissatisfaction mounted throughout 1804 and 1805, the newspapers continued to mirror the various opinions of

⁶⁹Claiborne to Madison, July 26, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 269-72.

⁷⁰Louisiana Gazette, July 24, 1804 in Territorial Papers: Orleans Series, 1794-1813 (General Records of the Department of State. File Microcopies of Records in the National Archives: No. T-260. Microfilm in the New Orleans Public Library, New Orleans, Louisiana), IV.

⁷¹Louisiana Gazette, August 7, 1804; Claiborne to Madison, June 26, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 272.

the inhabitants much to the dismay of the governor.

While Governor Claiborne was worried about political discontent and factionalism which was developing in Louisiana, he was busy helping to organize the new territorial government. The President, as provided in the act creating a government for the Territory of Orleans, named its principal officials. As secretary, he appointed James Brown, a lawyer, linguist, and brother of John Brown, senator from Kentucky. Brown accepted the position, but retained it only until December 11, 1804, when he was nominated to be a judge of the Superior Court. This position he declined because of the small salary, and began a law practice in New Orleans. He was succeeded by John Graham of Kentucky.⁷² The President initially appointed John B. Prevost, stepson of Aaron Burr and a judicial official in New York city, and Ephraim Kirby, a jurist from Connecticut, to the Superior Court, leaving one position vacant. He named Dominick A. Hall, then district judge in South Carolina, district judge and Mahlone Dickerson of Pennsylvania United States attorney.⁷³

Judge Prevost was the first of the newly appointed officials to arrive in New Orleans. He reached there on

⁷²President to James Brown, July 20, 1804, Carter (ed.), Orleans Territory, 269; President to Claiborne, August 30, 1804, ibid., 282; President to Brown, December 1, 1804, ibid., 341-42; President to John Graham, December 1, 1804, ibid., 342.

⁷³President to Claiborne, August 30, 1804, ibid., 282.

October 28, 1804,⁷⁴ and was followed on November 26 by Brown.⁷⁵ Hall arrived on December 7, but Kirby succumbed to fever on the way to New Orleans.⁷⁶ Thus when October 1, 1804, the day for installing the new territorial government, came not one of these officials was present to assume his duties.

The following day at the inauguration ceremonies of the major territorial officials, only the governor was present. He took the oath of office at noon at the Principal, or city hall, in New Orleans before mayor James Pitot. A large crowd consisting of the clergy, civil and military officials, and citizens were there. In his inaugural address, Claiborne thanked the people for their past support and asked them for their continued cooperation in the future. When he sat down Pierre Derbigny re-delivered the Governor's speech in French for the benefit of the native Louisianians.⁷⁷

Besides having none of the territorial officials ready to assume their duties, Governor Claiborne also had difficulty finding thirteen appropriate men willing to serve

⁷⁴Claiborne to the Secretary of State, October 29, 1804, ibid., 317.

⁷⁵Louisiana Gazette, November 30, 1804.

⁷⁶Claiborne to the President, December 10, 1804, Carter (ed.), Orleans Territory, 348.

⁷⁷Louisiana Gazette, October 5, 1804.

in the Legislative Council of the territory. As early as April, 1804, Jefferson had written Claiborne requesting short biographical sketches of residents whom he thought suitable for appointment to the Legislative Council. The President's instructions were that the council "should be composed . . . of men of integrity, of understanding, of clear property and influence among the people, well acquainted with the laws, customs, & habits of the country, and drawn from the different parts of the Orleans district in proportion to their population." A mere majority should be American, the rest Spanish or French.⁷⁸ Claiborne had not received Jefferson's letter by May 29, for on that date he wrote the President that if the Legislative Council had not yet been selected he wished to recommend four worthy candidates: Julien Poydras, Deville Degoutin Bellechasse, Benjamin Morgan, and John Watkins.⁷⁹ In July the President repeated his request and instructions to Claiborne.⁸⁰ Despite a raging fever, in August⁸¹ the governor had his

⁷⁸President to Claiborne, April 17, 1804, Carter (ed.). Orleans Territory, 225.

⁷⁹Claiborne to Jefferson, May 29, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 175-76.

⁸⁰Jefferson to Claiborne, July 7, 1804, The Papers of Thomas Jefferson, 1651-1826 (Division of Manuscripts, Library of Congress), CXLI.

⁸¹It was at this time that Claiborne in addition to being ill with fever himself, also lost his wife and infant daughter who both died on September 26, 1804. Louisiana Gazette, September 28, 1804.

friend, Joseph Briggs, send the chief-executive a list of his recommendations for the legislature, with comments on each person named. They were: Benjamin Morgan, John Watkins, Robert Dow, William Kenner, William Donaldson, James Pitot, Francis Duplessis, and Peter Petit of New Orleans; James Mather, Deville Degoutin Bellechasse, and Francis LeBreton D'Orgenoy of the coast between the city and Manchac; John Sibley of Natchitoches; William Wykoff and Theophilus Collins of Opelousas; Messrs. Loviell, Dubuche, Fontenet, and Durall of Atakapas; Julien Poydras and Samuel Young of Pointe Coupée; and William Wykoff, Jr. from opposite Baton Rouge. On August 30, Claiborne sent a second list of nominees for the Legislative Council which was identical with the first, except for the omission of Young who planned to move to his land in Mississippi.⁸² Claiborne's nominees included ten Frenchmen and eleven Americans and Englishmen. There were almost equal numbers of planters and merchants with a generous sprinkling of physicians. Although they were prominent men in the territory, the governor did not name any of his political enemies, such as Etienne Boré, Jean Noel Destréhan, Peter Sauvé, Daniel Clark, Evan Jones, or Edward Livingston.

By this time the President had refined his views on

⁸²Joseph Briggs to the President, August 17, 1804, Carter (ed.), Orleans Territory, 276-78; Claiborne to the President, August 30, 1804, ibid., 281, 284-85.

the composition of the Legislative Council and so informed Claiborne. It should consist of seven Americans and six Frenchmen, or residents of such long standing as to be considered as such; it should include both planters and merchants; and it should be divided proportionally between the city and country. Unwilling to wait any longer to receive the names of Claiborne's nominees, Jefferson acted to form the council on the basis of information he already possessed. To represent the French element of the population he selected Etienne Boré, Julien Poydras, and Deville Degoutin Bellechasse, and then listed the names of Pierre Derbigny, Pierre Sauvé, Jean Noel Destréhan, Gaspar Dubuys, and Michael Cantrell, from whom he directed Claiborne to choose three. To represent the Americans on the council, Jefferson named Benjamin Morgan, Daniel Clark, John Watkins, Evan Jones, Jack Roman, and William Wykoff, Sr. To these Claiborne was to add either Robert Dow or George Pollock. The President noted that, since both French and English were to be official languages of the territory, that in his selections he had favored bilingual persons. He also felt that the discontent among the French inhabitants of Louisiana resulted from the too speedy introduction of the English language in the law courts. He suggested that Claiborne also choose men who knew both languages.⁸³

⁸³Jefferson to Claiborne, August 30, 1804, ibid., 282-84.

Upon receiving the President's selections for membership on the Legislative Council, Claiborne assured him that the inhabitants of Orleans Territory would be generally pleased with them. He also informed the Chief Executive, however, that he had made a mistake in thinking Roman an American. To keep the American representatives on the council in the majority, therefore, Claiborne took it upon himself to substitute William Kenner for Roman, hoping that the President would approve.⁸⁴ The Governor immediately notified each of these men of his appointment with the request that he accept or reject it as soon as possible. Four days later, he sent each of them a copy of his proclamation convoking the Legislative Council on Monday, November 12, at the Hotel De Ville in New Orleans.⁸⁵ The Council failed to meet as called, however, because eight of the thirteen nominees declined their appointments.⁸⁶ Evan Jones was the first to do so, even publishing his refusal in a local newspaper in order to persuade others to do likewise. He declared that it would be inconsistent to accept a

⁸⁴Claiborne to the President, October 5, 1804, ibid., 307-308.

⁸⁵Louisiana Gazette, October 12, 1804.

⁸⁶Claiborne to Jefferson, December 10, 1804, Papers of Thomas Jefferson, CXLV. This was not a surprise to Claiborne for he claimed that eight of the thirteen men had signed the memorial to Congress. It can be assumed that these were the same eight men who refused their appointments. Claiborne to Madison, October 8, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 349.

position under a law which he had strongly denounced.⁸⁷ Etienne Boré and Robert Dow soon followed Jones,⁸⁸ and by the beginning of December only five of the original nominees had accepted their appointments. They were Benjamin Morgan, John Watkins, Julien Poydras, William Kenner, and William Wykoff, of whom only Poydras was French.⁸⁹

Another desperate situation soon developed in the territory. There had been literally no constituted government since October 1. John B. Prevost, the only territorial judge to have arrived in New Orleans, opened the Superior Court on Monday, November 5, 1804, but immediately encountered insurmountable problems because of the lack of both a criminal and a civil code. Only the Legislative Council could enact laws. Furthermore, the five councilors who had accepted their appointments and had come to New Orleans became restless waiting for the legislature to convene and threatened to return home.⁹⁰

Claiborne had to take some action immediately to provide an effective government. Therefore he took two

⁸⁷Claiborne to the Secretary of State, October 13, 1804, Carter (ed.), Orleans Territory, 310; Evan Jones to Claiborne, October 8, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 350-51.

⁸⁸Claiborne to the Secretary of State, October 29, 1804, Carter (ed.), Orleans Territory, 317.

⁸⁹Claiborne to the President, December 2, 1804, ibid., 344.

⁹⁰Ibid., 344-45.

blank commissions for members of the Legislative Council which President Jefferson had sent him a short time before and granted them to George Pollock and Eugene Dorcier. With these two men, there would be a total of seven councilors which was enough to make a quorum and allow the body to meet. Claiborne sent a note of apology to the President for acting without his prior approval, but declared his action to be an absolute necessity for the well-being of the territory.⁹¹ A few days later, the Governor issued another commission to James Mather, so that the Council would have a quorum even if one of the other councilors could not attend. Subsequently he named a fourth councilor, William Flood. The remaining four seats he left vacant for men to be recommended by the President.⁹²

On December 3, 1804, the first Legislative Council of the Territory of Orleans finally assembled at the Hotel De Ville. The next day the members elected their officers, including Julien Poydras, president; James Workman, secretary; and Isaac Camp sergeant-at-arms. At noon the Governor addressed the Council. Among the subjects which he called upon it to legislate were a law code, incorporation of the

⁹¹Louisiana Gazette, November 9, 1804; Claiborne to the President, December 2, 1804, Carter (ed.), Orleans Territory, 344-45.

⁹²Claiborne to the President, December 8, 1804, Carter (ed.), Orleans Territory, 347-48; Claiborne to the Secretary of State, March 26, 1805, ibid., 426.

city of New Orleans and providing it health regulations and police ordinances, the construction of internal improvements, an educational system, and the organization of the militia. He urged economy in all the concerns of government.⁹³ Three days later, the Legislative Council answered the Governor's speech, promising to consider the legislation which he had proposed. At the same time, it adopted rules to guide its proceedings.⁹⁴

The first session of the Legislative Council ran from December 3, 1804, to May 4, 1805. The members worked well together without any serious factional divisions and succeeded in passing fifty-two laws. They included such major acts as those creating an educational system, organizing the militia, and dividing the territory into counties and providing inferior courts, as well as minor statutes like that of granting divorces to individuals.⁹⁵ The Governor approved all of the important measures except

⁹³Louisiana Gazette, December 7, 1804; Claiborne to the Secretary of State, December 8, 1806, Claiborne (William C. C.) Collection, Letterbook, 1804-1805 (Louisiana State University Archives, Baton Rouge, Louisiana); Speech to first Legislative Council of Territory of Orleans, December 9, 1804, ibid.

⁹⁴Louisiana Gazette, December 14, 1804.

⁹⁵Acts Passed at the First Session of the Legislative Council of the Territory of Orleans . . . (New Orleans: James M. Bradford, 1805).

two,⁹⁶ and then prorogued it until June 20, 1805.⁹⁷

Of the numerous acts passed by the first session of the Legislative Council the most important for the future was that dividing the territory into counties and inferior courts. It divided Orleans Territory into twelve counties--Orleans, German Coast, Acadia, LaFourche, Iberville, Pointe Coupee, Atakapas, Opelousas, Natchitoches, Rapides, Ouachita, and Concordia--and defined their boundaries. For each county there was to be a sheriff, coroner, clerk, treasurer, judge, and as many justices of the peace as the governor might deem proper from time to time. These officials replaced the district commandants and syndics. All the judicial officials were to hold office for four years while other officers were during the pleasure of the governor. Each judge was to hold court four times yearly and was to have jurisdiction in all civil cases to the value of fifty dollars and upward and exclusive jurisdiction in all personal wrong cases where the damages did not exceed one hundred dollars. The justices of the peace for each

⁹⁶Claiborne vetoed only two bills of importance: a bill to create a court of commerce in and for the city of New Orleans, and to regulate the formation of juries for the trial of commercial causes and an act to prevent persons other than those who were inhabitants of Louisiana on the 30th day of April, 1803, or citizens of the United States, from holding any office under the government of the territory. Louisiana Gazette, March 15, April 19, 1805.

⁹⁷Claiborne to the Legislative Council, May 4, 1805, Carter (ed.), Orleans Territory, 466.

county were given cognizance of all cases involving fifty dollars or less. Until the county courts should convene for the first time, the civil commandants were to continue in office.⁹⁸

In addition to the law creating counties and providing for their government, other acts of the Legislative Council filled the gaps in the territorial organization. One created a treasurer for the territory and enumerated his duties.⁹⁹ Another provided for a territorial attorney general to replace the old procurer general.¹⁰⁰ Other measures regulated judicial proceedings in the various territorial courts and provided for the punishment of crimes and misdemeanors.¹⁰¹ While enacting many important laws the

⁹⁸An Act Dividing the Territory of Orleans into Counties and Establishing Courts of Inferior Jurisdiction Therein, Acts Passed at the First Session of the Legislative Council, 144-208. Later the Legislative Council amended the law to stagger the session of the various county courts. An Act to Amend an Act for Dividing the Territory of Orleans into Counties and Establishing Courts of Inferior Jurisdiction Therein, ibid., 372-74. Because of the confusion that could result from the shift of authority from the commandants and syndics to the county judges and justices of the peace, a later statute designated that from the day the new judicial officials took their oaths of office the powers of the former authorities ceased. It also stipulated the duties of the judges and justices of the peace. An Act Relative to the Judges of the County Courts, and justices of the Peace in the Territory of Orleans, ibid., 388-98.

⁹⁹An Act to regulate the duties of a Treasurer for the Territory of Orleans, ibid., 20-24.

¹⁰⁰An Act to provide for the Appointment of an Attorney General, ibid., 260-62.

¹⁰¹Ibid., 210-60, 358-72, 408-12, 416-54.

Legislative Council failed to adopt a legal code for the territory, although Judge Prevost strongly urged it to do so before Frenchmen gained a preponderance in the legislature. The Council, however, did authorize the appointment of two lawyers to advise a legislative committee in drawing up both a civil and criminal code.¹⁰²

Although the territorial government was becoming organized and beginning to function, the political dissension and ferment in Orleans intensified. The governor's enemies attacked his character, abilities, and administration. The newspapers became organs for the publications of both friends and foes of the governor and American domination. If Governor Claiborne was uncomfortable during his temporary governorship, he would be even more so during the first year of territorial government as political controversy swirled about him.

¹⁰²John B. Prevost to the Secretary of State, December 19, 1804, Carter (ed.), Orleans Territory, 356-57; Joint Resolution of both branches of the legislature, Acts Passed at the First Session of the Legislative Council, 458-60.

CHAPTER VI

MATURITY OF THE ORLEANS TERRITORY

Under the act of March 26, 1804, the Territory of Orleans had a first stage government consisting of an appointed governor, secretary, three member Superior Court, and Legislative Council. There was controversy and continued disorder on the part of some French and some American inhabitants who opposed the first territorial government. To express their dissatisfaction, a memorial, calling among other things for statehood, had been sent to Washington. Congress refused to grant statehood, but did provide for a second stage territorial government based on the Northwest ordinance.

While attacks on the territorial government were continuing, it was no small task to reconcile the people to their new government. As long as the result of the memorial was unknown, the inhabitants remained restless and disorderly. Only two days after Governor Claiborne's inauguration in October of 1804 and before the actual organization of the government, the three delegates, Pierre Derbigny, Pierre Sauv  , and Jean Noel Destr  han, bearing the memorial to

Congress, set sail from New Orleans.¹ Claiborne gave them a letter of introduction to Secretary of State Madison while at the same time informing him that, although there was some loyal opposition in the memorial, there were also traces of foreign influence. Many of the signers, declared the governor, were admirers of Bonaparte, while others were followers of the Marquis de Casa Calvo, who was still in New Orleans.²

To eliminate one of the sources of discontent, Claiborne determined to force Casa Calvo to leave the territory. Since he was not a recognized agent of Spain, this could legally be done. However, he could do nothing about the French malcontents and their American leaders except to defend his actions against their attacks.³

Late in 1804, one of the most vicious attacks on the governor appeared in the form of a political pamphlet, Esquisse de la Situation Politique et Civil de La Louisiane depuis le 30 Novembre 1803 jusqu'a 1 er Octobre 1804, par un Louisianais. Although the author was anonymous, he was

¹Louisiana Gazette (New Orleans), October 5, 1804.

²Claiborne to Madison, October 1, 1804, Dunbar Rowland (ed.), Official Letterbooks of W. C. C. Claiborne, 1801-1816 (6 vols.; Jackson: State Department of Archives and History, 1917), II, 344-45; Claiborne to the Secretary of State, October 3, 1804, Clarence E. Carter (ed.), Orleans Territory, 1803-1812 (Volume IX of Territorial Papers of the United States, Washington: Government Printing Office, 1940), 304-305.

³Claiborne to Madison, October 5, 1804, Rowland (ed.), Claiborne's Letterbooks, 347; Claiborne to the Marquis de Casa Calvo, October 9, 1804, ibid., 371.

probably Pierre Derbigny, a former employee in the governor's office. Starting with an account of the last days of Louisiana under Spanish and French rule, the pamphlet charged that it was the early acts of Governor Claiborne which caused dissension to develop between the American and French inhabitants of the city. Among these, according to the writer, were the governor's recognition of Laussat's hastily organized French institutions and procedures, his creation of an American controlled court of pleas, his appointment of fellow countrymen to all the lucrative positions, his reorganization of the volunteer militia corps in preference to the French manned regular militia units, and his introduction of English into all governmental concerns. The pamphlet also lamented the fact that the governor himself was a complete stranger to the people he was to guide. These were the causes, it proclaimed, of the memorial's having been sent to Congress.⁴ The Governor, in a lengthy letter to the Secretary of State, denied all of these charges and pleaded that any errors he may have committed in establishing American control over Louisiana were due to the chaotic conditions which he found there.⁵

⁴Esquisse de la Situation Politique et Civil de la Louisiane depuis le 30 Novembre jusqu'a 1 er Octobre 1804 par un Louisianais (Nouvelle Orleans: Belleurgey & Renard, 1804); Claiborne to the Secretary of State, October 22, 1804, Carter (ed.), Orleans Territory, 312.

⁵Claiborne to Madison, October 16, 1804, James A. Robertson (ed.), Louisiana Under the Rule of Spain, France,

Much to the Governor's dismay, the controversy over the establishment of American government in the Orleans Territory continued to rage from the fall of 1804 to the spring of 1805. Heated exchanges appeared not only in local newspapers, but in those in other parts of the country as well. Most of them focused on the memorial complaining of the acts of the American government in the territory and demanding immediate statehood. The first major attack on this memorial came from a rather strange source. It appeared in the Philadelphia Aurora and its author was Thomas Paine, the famous firebrand of the American and French revolutions. Under his usual pseudonym "Common Sense," Paine attacked the request for incorporation into the Union, claiming that Louisiana was already a part of the nation just as the former territories had been. It had been purchased by the United States and as national property belonged under the guardianship of Congress and not under the control of the French inhabitants who, because of American immigration into the area, would soon be in the minority. Furthermore, the inhabitants by comparing American control unfavorably with their former governments, proved they had no understanding of the blessings of freedom and a republican government.⁶

A few months later, Paine was answered by "A

and the United States, 1785-1807 (2 vols.; Cleveland: The Arthur H. Clark Company, 1911), II, 268-78.

⁶Louisiana Gazette, November 2, 1804.

Louisianian" writing in the New York Evening Post. He declared that there was no such thing as freedom among the inhabitants of Louisiana under the temporary government, and that the United States did not gain the right to do with the people of Louisiana as it pleased when it purchased the area. To the contrary, the United States had promised to extend to them the rights and privileges of citizens and to incorporate them into the Union. Although admitting it to be an evil, the writer staunchly defended slavery as necessary to the very existence of Louisiana.⁷

While exchanges such as these were filling Northern newspapers, similar articles appeared in the local press. In November the Louisiana Gazette published a lengthy piece by one "Laelius." He contended that the dissension and jealousy between the different elements of the Louisiana population did not result from the actions of Governor Claiborne, but from the disputes and conflicts between Laussat and Casa Calvo and from the disorganized state of administration before the arrival of the American governor. Laelius upheld Claiborne's creation of American courts, introduction of the English language, and recognition of the American volunteer military units while denying that the Governor assigned all lucrative positions to Americans and allowed the free introduction of dangerous Negroes into the

⁷Ibid., January 15, 1805.

territory.⁸ The wording of this defense was markedly similar to the Governor's own justification of his actions to his superiors.⁹

Naturally this defense of Claiborne did not pass unnoticed, but aroused a vehement rebuttal from "A Louisianian," who questioned Laelius's reasons for defending the governor and his qualifications to do so. According to this writer, Laelius was a newcomer to the territory who knew nothing of the governor's actions except what he learned as a guest in Claiborne's own house. "A Louisianian" stated that Claiborne's errors were unintentional, resulting from his procrastination and want of judgment and application. This, however, did not excuse him.¹⁰

While defending himself against those attacks to his superiors in Washington,¹¹ Claiborne made no public effort to do so to the people of Louisiana. There is no evidence that he made any speeches or published any statements of his

⁸Ibid., November 9, 1804. According to Everett S. Brown, The Constitutional History of the Louisiana Purchase, 1803-1812 (Volume X of University of California Publications in History, Berkeley: University of California, 1920), 155 "Laelius" was James Workman.

⁹Claiborne to Madison, October 16, 1804, Robertson (ed.), Louisiana Under the Rule, II, 268-78; Claiborne to the President, November 25, 1804, Carter (ed.), Orleans Territory, 338-41.

¹⁰Louisiana Gazette, January 11, 15, 22, 1805.

¹¹Claiborne to the Secretary of State, January 19, 1805, Carter (ed.), Orleans Territory, 371-75; Claiborne to the Secretary of State, January 26, 1805, ibid., 380-82.

own explaining and defending his administration.¹²

While the American administration of Louisiana was being discussed in the newspapers, Sauvé, Destréhan, and Derbigny arrived in Washington with the memorial criticizing the government of the territory and requesting certain changes. Because of their gentlemanly appearance and manners, they were cordially received by members of the administration and Congress and generally made a favorable impression, especially on the Federalists. On December 3, 1804, Joseph H. Nicholson, a Republican from Maryland, presented the Louisiana memorial to the House of Representatives, and it was referred to a committee already formed to consider changes in the government of Louisiana as suggested by President Jefferson in his annual message to Congress.¹³ Although denying that the United States would violate its promise in the treaty of cession by not modifying the government of Louisiana, on January 26, the committee

¹²There were other newspapers in New Orleans besides the Louisiana Gazette which Claiborne classified as a Federalist paper. The Orleans Gazette was the official governmental organ, but unfortunately no complete copies of it are extant, although some of Claiborne's letters contain segments of various issues. The Governor never once mentioned defending himself in any of the local newspapers.

¹³Louisiana Gazette, January 18, 22, 1805; Paul Leicester Ford (ed.), The Writings of Thomas Jefferson (10 vols.; New York: Putnam, 1892-1899), VIII, 323-32. Hereinafter cited as Jefferson Writings.

recommended self-government for the territory.¹⁴ When, however, it then did nothing for a month, the Louisiana agents became restless and disgruntled.¹⁵

Despairing of action in the House, the agents reported their lack of progress to a permanent committee in New Orleans headed by Etienne Boré. Their report was published in the Louisiana Gazette in the form of an article entitled, "Reflections on the Cause of Louisianians" which was really a propaganda statement for statehood rather than an account of what was happening in Washington. It expressed the people's initial joy at becoming a part of the United States, but explained how this joy was soon dampened by their being placed "in an unsettled state, under the immediate government of one unacquainted with their customs, laws, and language!" Utter confusion and disorganization resulted from the ill-planned and executed transition to American control. Despite the misery of the people of Louisiana, the important task was to destroy the arguments of those who would put obstacles in the way of ameliorating these conditions by incorporating the area into the Union. Such opponents fell into three classes: (1) those who refused to admit that the treaty of cession guaranteed

¹⁴Louisiana Gazette, March 12, 1805; Henry Adams, History of the United States of America (9 vols.; New York: C. Scribner's Sons, 1889-1891), II, 400.

¹⁵Louisiana Gazette, June 11, 1805.

admission into the Union as soon as possible because the Louisianians were not a signatory to the treaty; (2) those who felt that the treaty of cession provided only for the admission of Louisiana at some future date to be determined by the United States; and (3) those who admitted that the treaty provided for the admission of Louisiana as soon as possible but argued that it was unsafe for the interests of the United States to incorporate it immediately. Skillfully the agents attempted to demolish each of these arguments, finally stating that only incorporation into the Union could heal the dissension which had arisen among the Louisianians and insure the area's future peace and safety.¹⁶

Having little success with the House committee, the Louisiana agents turned to the Senate, to which William B. Giles, a Republican from Virginia, presented the Louisiana memorial on December 31, 1804. It was referred to a committee consisting of Giles, Jesse Franklin of North Carolina, Joseph Anderson of Tennessee, Uriah Tracy of Connecticut, and Abraham Baldwin of Georgia.¹⁷ The Louisiana agents met with the Senate committee where they gave their interpretation of the terms of the treaty of cession, and especially denied that the Ordinance of 1787 was applicable to Louisiana, since the treaty stated that Louisiana was to be incorporated

¹⁶Ibid., March 15, 1805.

¹⁷Annals of Congress, 8 Cong., 2 sess., 28, 29.

into the Union according to the principles of the Constitution and this did not include the Ordinance of 1787. If a government were set up on the basis of that law, then the faith of the United States would be violated.¹⁸

While the Senate committee was considering a bill, the committee of the House, at the urging of some of its members, again took up the question of a government for Orleans Territory and resolved that it be given self-government. However, John Randolph, the chairman, delayed for over two weeks before drafting the report and presenting it to the full House where it passed immediately with directions that the committee frame a bill for the government of Louisiana. But once again, Randolph delayed by not calling the committee into session.¹⁹

Meanwhile, the Senate committee was engaged in framing a bill that was based on the Northwest Ordinance. To this the agents objected and tried unsuccessfully to have the bill amended. They particularly sought to have the number of inhabitants needed for statehood reduced from 60,000 to 33,000 but without success. The Senate passed the Louisiana bill on February 18, 1805, and sent it to the House for its concurrence.²⁰ The Frenchmen made a last-minute attempt to

¹⁸Louisiana Gazette, March 26, 1805.

¹⁹Ibid., June 11, 1805.

²⁰Annals of Congress, 8 Cong., 2 sess., 61, 1201; Journal of the House of Representatives of the United States (Washington: Gales and Seaton, 1826), V, 144.

introduce petitions into the House asking that Louisianians be granted more self-government but once again were unsuccessful. Christopher Clark of Virginia did propose an amendment providing that the Louisianians would have the right of choosing their governor through the elective legislature with the President's approval, but it was defeated.²¹

The House of Representatives approved the Senate bill for the further government of Orleans on March 1, 1805,²² and the President signed it the following day. The law did not grant any of the three important demands of the Louisianians: reuniting the old province of Louisiana, resumption of the slave trade, or incorporation into the Union as a state. It provided that the inhabitants of Orleans Territory were to enjoy a government similar to that of Mississippi Territory. The people of Louisiana were permitted to elect a general assembly which, in turn, would nominate ten candidates from whom the President would choose five members for the Legislative Council. The legislative provisions of the act were to go into effect on July 4, so as to give the governor time to call elections. The governor was to convene the assembly at New Orleans on the first Monday of the following November, and the entire legislature as soon as

²¹Journal of the House of Representatives of the United States, V, 155-56.

²²Annals of Congress, 8 Cong., 2 sess., 211; Journal of the House of Representatives of the United States, V, 157.

convenient after the appointment and commissioning of the councilors. Thereafter the general assembly was to meet at least once annually. All laws in force when the act became effective were to remain so until the legislature took action upon them. The territorial officials were still to be appointed by the President with the advice and consent of the Senate. When the population of the Territory of Orleans should reach 60,000 free inhabitants, the people were authorized to frame a constitution and state government. Any provisions of the act of March 26, 1804, providing for the temporary government of Louisiana that were repugnant to this act were to be repealed after the first Monday of the next November.²³

While those who had been demanding immediate statehood for Orleans were dissatisfied with this law, they recognized some virtues in it. The people of Orleans for the first time had the right of making their own laws and had a promise that when their population reached a certain number they would be admitted into the Union. Still they resented the fact that the petitions of the Louisianians had been ignored in framing this bill. In their opinion the Jefferson administration had decided upon the government for the territory

²³"An Act for the Government of the Orleans Territory," March 2, 1805, Carter (ed.), Orleans Territory, 405-407; United States Statutes at Large, II, 322-23.

long before the matter was brought up in Congress.²⁴ In this judgment the agents were right, for in August, before the Frenchmen presented their memorial to Congress, Jefferson had written the Secretary of State that he hoped that Orleans Territory would be given an elective legislature at the next session of Congress. Any evils which might result from such an action, he stated, would be infinitely less serious than to give the people a "pretext of calling in a foreign Umpire between them & us." The President was referring to the threat of some Louisianians to call upon Bonaparte to enforce American compliance with the provisions of the treaty.²⁵ Re-enforcing the President's views, Claiborne reported to Secretary of State Madison that a rumor was circulating in New Orleans that a few malcontents were planning to visit the French emperor for the purpose of requesting his intervention in the cause of Louisiana. As usual, however,

²⁴"Report which the Commissioners appointed by the inhabitants of Lower Louisiana as bearers of their Remonstrance to the Congress of the United States made to their Fellow Citizens, on their return from the Federal City," May 2, 1805, Louisiana Gazette, June 11, 1805.

²⁵President to the Secretary of State, August 7, 1804, Carter (ed.), Orleans Territory, 274; Jefferson to the Secretary of State, August 7, 1804, Ford (ed.), Jefferson Writings, VIII, 313-14; Nathan Schachner in Thomas Jefferson: A Biography (2 vols.; New York: Appleton-Century-Crofts, 1951), II, 786, 787 states that Jefferson was willing to make the Louisianians full citizens to avoid the danger of French intervention; Adams, History of the United States, II, 401 states that the three Louisiana agents threatened to seek foreign aid when their demands were not met.

Claiborne placed little importance in the rumor.²⁶ This threat of French intervention, with the Spanish in Texas and Florida, perhaps were important reasons that the Louisianians were given self-government in 1805.

During the months of deliberation on the Orleans bill and throughout the summer of 1805, Governor Claiborne struggled with a government marked by inertia and complacency. Wishing to avoid the embarrassment of additional refusals to serve the public, Claiborne determined not to fill any of the vacancies in the Legislative Council until the fate of the memorial was definitely known in the territory.²⁷ Instead, he concentrated on organizing the local government. Leaving New Orleans after the close of the first legislative session in May, the Governor traveled along the Mississippi River from New Orleans to Pointe Coupée organizing the county courts and reconciling the French inhabitants to the introduction of American jurisprudence. This excursion was Claiborne's first journey into the country areas of the territory, and he was favorably impressed with them. By

²⁶Claiborne to Madison, June 6, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 79; Charles Gayarré, History of Louisiana (4 vols., 4th ed.; New Orleans: Pelican Publishing Company, 1965), IV, 111.

²⁷Claiborne to the Secretary of State, March 26, 1805, Territorial Papers: Orleans Series, 1794-1813 (General Records of the Department of State. File Microcopies of Records in the National Archives: No. T-260. Microfilm in the New Orleans Public Library, New Orleans, Louisiana), VI. Hereinafter cited as S.D. Territorial Papers.

June 12, every county judge had been appointed, although two of them soon resigned and were replaced early the next year. The Governor also filled subordinate county positions, such as sheriffs, coroners, clerks, and justices of the peace, usually with men recommended by the judges or ex-commandants. Thus, by the middle of June, the local government was ready to function, but with one minor defect. The law erecting the counties had not yet been printed, so the new officials had no precise knowledge of their lawful duties and powers in the early days of their administration.²⁸

Following his return to New Orleans at the end of May, Governor Claiborne called the Legislative Council back into session effective June 20, 1805. Since the Council would cease to exist on July 3, however, he did not appoint any additional members. A quorum was not present until June 22. The Governor then addressed the Council urging it to consider

²⁸Claiborne to the Secretary of State, April 29, 1805, Carter (ed.), Orleans Territory, 445-46; "Register of Civil Appointments in the Territory of Orleans," enclosed in John Graham to the Secretary of State, February 13, 1806, ibid., 598-603; Claiborne to Madison, May 13, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 53; Claiborne to Madison, May 18, 1805, ibid., 58; Claiborne to Madison, May 31, 1805, ibid., 60; Claiborne to Pitot, May 13, 1805, S.D. Territorial Papers, VI; Louisiana Gazette, June 25, July 14, 1805. Claiborne appointed the following persons county judges: Theophiles Collins, Opelousas; John Alexander, Natchitoches; James Workman, Orleans; Edward C. Nicholas, Atakapas; Charles L. P. Danemours, Ouachita; James Williams, Concordia; William Miller, Rapides; Michael Cantrell, Acadia; James Mather, LaFourche; Pierre Beley, Iberville; Julien Poydras, Pointe Coupée; and Achilles Trouard, German Coast. By January, 1806, Alexander and Miller resigned.

measures for establishing common law jurisdiction in the territory and regulating the fees of notaries public, as well as modifying some of its earlier acts.²⁹ The Council dispensed with its regular rules and rushed through fourteen pieces of legislation in a ten-day session. They included laws for improving inland navigation, providing for the Superior Court going on circuit, regulating taverns and other houses of public entertainment, regulating notaries public, and creating a probate court. The Council having completed its legislative labor, on July 3, Claiborne prorogued it.³⁰

That same day the Governor issued a proclamation calling for the election of twenty-five representatives to the new House of Representatives, as provided in the act of Congress of March 2, 1805. He partitioned the territory into twelve electoral districts, one for each county, and each district was assigned a specific number of representatives as follows: Orleans, seven; German Coast, Acadia,

²⁹Louisiana Gazette, June 28, July 5, 1805; Claiborne to the Legislative Council, June 22, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 103-105. Claiborne felt that the law of March 2, 1805 nullified the Legislative Council as of July 3, but the Secretary of State later notified him that the Council remained in effect until November 1. Claiborne to Madison, June 26, 1805, ibid., 105; Secretary of State to Claiborne, August 28, 1805, Carter (ed.), Orleans Territory, 496.

³⁰Acts Passed at the Second Session of the Legislative Council of the Territory of Orleans . . . (New Orleans: James M. Bradford, 1805), 2-28, 30-32, 52-54, 68-74, 76-86; Claiborne to the Legislative Council, July 3, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 108-13; Louisiana Gazette, July 5, 9, 1805.

LaFourche, Iberville, Atakapas, Opelousas, Pointe Coupée, two each; and Rapides, Natchitoches, Ouachita, and Concordia, one each. The elections were scheduled for the third Monday and Tuesday of September in each county except Orleans where three days were set aside, with the convocation of the assembly set for the first Monday in November. To be eligible for election to the House, a person had to have been a citizen of the United States for three years and a resident of the district, or have resided in the district for three years. He also had to own two hundred acres of land in fee simple. A voter had to possess a fifty-acre freehold in the district, be a citizen of the United States for two years and a resident of the district, or have resided in the district for two years.³¹

Meanwhile the Governor started on a trip up the Mississippi River in order to aid in organizing the local militia and to restore his health. By the time he reached Acadia, sixty miles above the city, Claiborne learned that rumors were circulating, and apparently gaining credence, that the United States was planning to retrocede Louisiana west of the Mississippi River to Spain in exchange for West Florida. The rumors reportedly originated with the Spanish officers in New Orleans whose presence there seemed to

³¹Proclamation by Governor Claiborne, July 26, 1805, Carter (ed.), Orleans Territory, 478-81; Louisiana Gazette, July 30, 1805, January 3, 1806.

substantiate them. Despite falling sick of a fever at Natchez, the governor continued his journey until he reached Concordia.³² There he received a letter from John Graham, territorial secretary, urgently requesting his immediate return to New Orleans. Graham reported that the Spanish were making warlike preparations at Havana, and that the Louisianians were supporting their endeavors. Claiborne hurried home but on his arrival found that all was calm, although some anxiety was exhibited by the inhabitants at the threat of war between Spain and the United States. The newspapers were circulating war stories which again seemed to be supported by the presence of Spanish military personnel in New Orleans,³³ as well as the fact that the Spaniards were augmenting their military forces at Pensacola, Mobile, and on the Texas frontier. The Governor suggested that additional forces be sent to New Orleans to be deployed so as to form an encircling ring around the city. He expressed concern that in the event of hostilities the Creoles would remain

³²Claiborne to Madison, August 20, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 179; Claiborne to the Secretary of State, August 23, 1805, ibid., 180-81; Claiborne to Madison, August 26, 1805, ibid., 182-83; Claiborne to Madison, September 11, 1805, ibid., 186-87. Wilkinson advised the Spanish officials to exchange the Floridas for territory across the Mississippi if Spain was forced to yield. James Ripley Jacobs, Tarnished Warrior: Major-General James Wilkinson (New York: The Macmillan Company, 1938), 206.

³³John Graham to Claiborne, September 19, 1805, Carter (ed.), Orleans Territory, 513; Claiborne to Madison, September 27, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 190-91.

neutral, while the Spanish and French inhabitants would actively join the Spanish cause.³⁴

At this time, November 4, 1805, the territorial House of Representatives³⁵ met for the first time in New Orleans. The next day it organized itself, electing Jean Noel Destréhan speaker. The first major order of business was the nomination of ten persons from whom the President of the United States would choose five to compose the Legislative Council. To be eligible for nomination, a person had to own a freehold of five hundred acres and be a resident of the territory.³⁶ They were to serve for a five-year term. The governor suggested that the nominees represent the several

³⁴Claiborne to Madison, October 5, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 191-92; Claiborne to Madison, November 5, 1805, ibid., 225-27.

³⁵The members of the first House of Representatives were John B. M'Carty, Hazure Del'Orme, Dominique Bouligny, John Watkins, James Carrick, Robert Avar, Etienne Boré, Orleans; Jean Noel Destréhan, Joseph Andry, German Coast; Joseph LeBlanc, Felix Bernard, Iberville; Joseph Landry, William Conway, Acadia; Nicholas Verrat, Henry S. Tibodeau, LaFourche; Ebenezer Cooly, Simon Croizet, Pointe Coupée; Louis Fontaineau, Luke Collins, Opelousas; Joseph Sorrel, Martin Duralde, Atakapas; Alexánder Fulton, Rapides; Emanuel Prudomme, Natchitoches; Samuel Mahan, Concordia; Abraham Morehouse, Ouachita. These men were elected for two-year terms so that the House of Representatives of 1806 and 1807 was composed basically of the same group with some changes due to resignations and deaths. Louisiana Gazette, November 12, 1805; Mississippi Messenger (Natchez), December 5, 1805.

³⁶"Address to the House of Representatives," November 4, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 223-24; Louisiana Gazette, November 5, 1805; Mississippi Messenger, December 5, 1805.

sections of the territory. On November 8 the House nominated as councilors: Joseph de Ville Bellechasse, John W. Gurley, John B. M'Carty, Pierre Derbigny, Jean Noel Destréhan, Pierre Sauvé, Dominique Bouligny, Joseph Villars, Evan Jones, and Francois Le paulenier Dannemours.³⁷ Of these all but the last named lived either in New Orleans or Orleans county. Dannemours resided in Ouachita. Seven of the nominees--M'Carty, Sauvé, Bellechasse, Bouligny, Dannemours, Destréhan, and Villars--were planters; two, Gurley and Derbigny, were lawyers, and one, Jones, was a merchant. All but Destréhan and Bellechasse spoke both French and English, and those two were learning English. Only two of the nominees were Americans. Claiborne recommended all except Evan Jones, one of his old political enemies, to the President for appointment. He even approved Sauvé, who had been one of the memorialists in 1804. After nominating the councilors, the House adjourned, expecting to be called back into session by the governor in February.³⁸

It was not until February, however, that Claiborne learned the President's choices for the Council. They were: Bellechasse, Gurley, M'Carty, Destréhan, and Sauvé. The

³⁷Louisiana Gazette, November 8, 12, 19, 1805; Mississippi Messenger, December 5, 1805; Jean Noel Destréhan to the President, November 11, 1805, Carter (ed.), Orleans Territory, 523-25.

³⁸Claiborne to the President, November 13, 1805, Carter (ed.), Orleans Territory, 525-26; Louisiana Gazette, November 19, 1805.

Senate confirmed all but Gurley, making it necessary for the next session of the territorial House of Representatives to nominate two more men from whom the President would choose one.³⁹

When Claiborne received commissions for four of the councilors he determined immediately to call the complete legislature into session hoping that the fifth councilor would be named before the date of meeting to ensure a constitutional meeting. He issued a proclamation for the legislature to meet on the fourth Monday of March, 1806.⁴⁰ During the session five men resigned. There were a number of resignations in later legislatures. Most of the sessions lasted from three to four months, and many of the delegates, especially planters, found it hard to spend so much time in New Orleans. Some disliked being away from their families for such long periods. A few were forced to resign because of poor health.⁴¹

³⁹President to Claiborne, February 10, 1806, Carter (ed.), Orleans Territory, 580. The Orleans House of Representatives nominated Julien Poydras and Dominique Bouligny to fill the vacancy. The President chose Julien Poydras. John Watkins to the President, April 4, 1806, ibid., 622-23; Claiborne to Poydras, June 13, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 326.

⁴⁰Claiborne to the Secretary of State, February 20, 1806, Carter (ed.), Orleans Territory, 604; "Proclamation," February 24, 1806, ibid., 606; Claiborne to the President, March 4, 1806, ibid., 605.

⁴¹Louisiana Gazette, November 12, 1805; H. Molier to Claiborne, January 21, 1806, Carter (ed.), Orleans Territory, 574; Writ of Election, March 10, 1806, ibid., 666-67; Claiborne to Nicholas Verett, n.d., Rowland (ed.), Claiborne's Letterbooks, III, 273-74.

On Monday, March 26, 1806, the first legislature of the Territory of Orleans assembled in New Orleans to begin what became a memorable session. Immediately Destréhan resigned his speakership to assume his seat in the Council, and the assembly elected Watkins as his permanent replacement. The next day, as usual, the Governor addressed a joint session of both houses, calling for legislation on subjects such as internal improvements, revision of the judiciary, implementation of educational measures, and modification of the militia laws.⁴² Both houses made respectful replies and promised to consider his recommendations.⁴³

Despite the polite formalities of the first days of the session, tension soon developed between the executive and the legislature. Both the Assembly and the Legislative Council were dominated by Creoles and Frenchmen, who were jealous of their newly acquired political power and were unwilling to stomach any executive interference.⁴⁴

After several weeks in which it concerned itself with

⁴²Louisiana Gazette, March 25, 28, 1806; in Rowland (ed.), Claiborne's Letterbooks, III, 274-78 the address is misdated March 24, 1806.

⁴³Louisiana Gazette, April 4, 11, 1806; Jean Noel Destréhan to Claiborne, March 29, 1806, Carter (ed.), Orleans Territory, 618-19; John Watkins to Claiborne, April 2, 1806, ibid., 620-22.

⁴⁴Claiborne to Jefferson, April 10, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 288-89; Claiborne to Madison, May 16, ibid., 299-300.

largely routine matters, in the middle of May the legislature took up the election of a territorial delegate to Congress. The contest for this important post was between John Watkins, representing the American element in the territory, and Daniel Clark and Evan Jones, the candidates of the "ancient Louisianians." On May 19, the legislature chose Clark, one of Claiborne's bitterest enemies. In reporting the result of the election to President Jefferson and Secretary of State Madison, Claiborne reminded them that the new delegate had always been an opponent of the administration and would probably ally himself with its foes in Congress. A month earlier John Randolph had charged Claiborne's administration in Louisiana was weak and imbecile. Now, observed Claiborne, Randolph would have a junior aid in Daniel Clark. That such a development was not unlikely can be assumed from Clark's statement to General Wilkinson that he had "found it necessary in order to oppose Governor Claibornes Creatures and schemes with success, to accept the appointment of Delegate from this Country to Congress."⁴⁵

Meanwhile the Governor and legislature tangled over

⁴⁵Louisiana Gazette, May 20, 1806; Moniteur de la Louisiane (New Orleans), May 21, 1806; Claiborne to Jefferson, May 21, 1806, The Papers of Thomas Jefferson, 1651-1826 (Division of Manuscripts, Library of Congress), CLIX; Claiborne to Madison, April 29, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 293-94; Clark to Wilkinson, June 16, 1806, Carter (ed.), Orleans Territory, 660-61.

several bills which the chief executive vetoed. The first established certain qualifications for membership in both houses of the legislature. Claiborne vetoed the measure because it would apply to present legislators, who, in his opinion, had a right to continue in office under the conditions stated in the ordinance creating the territorial government.⁴⁶ Shortly after this executive-legislative clash, Pierre Sauvé and Jean Noel Destréhan, two leaders of discontent in Louisiana, resigned from the Legislative Council effective at the end of the session ostensibly for reasons of health and family concerns. Bellechasse also wrote a letter of resignation, but was dissuaded from sending it.⁴⁷ Even with Bellechasse's rescission, the Council was in a dangerous situation for two of the four members⁴⁸ wanted to resign although Claiborne advised them to retain their seats

⁴⁶Moniteur de la Louisiane, May 14, 1806; Claiborne to the Legislative Council and House of Representatives, May 6, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 296-97; Claiborne to Madison, May 8, 1806, ibid., 297-98; Alcée Fortier, Louisiana: Comprising Sketches of Counties, Towns, Events, Institutions, and Persons in Cyclopedic Form (3 vols.; Atlanta: Southern Historical Association, 1909), I, 218.

⁴⁷Pierre Sauvé to Claiborne, May 21, 1806, Carter (ed.), Orleans Territory, 641; Jean Noel Destréhan to Claiborne, May 24, 1806, ibid.; Claiborne to Madison, May 26, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 313; Fortier, Louisiana, 219.

⁴⁸There were only four members of the Council since the vacancy created by the Senate rejection of John W. Gurley was not filled until June 13, 1806, when Claiborne sent a commission to Julien Poydras. Claiborne to Poydras, June 13, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 326.

until the President received notification of their resignations.⁴⁹

A major issue between the French-Creole dominated legislature and the governor was over the legal system, especially the introduction of the American system in place of the old French one. The legislature passed a bill recognizing French authors and treatises on civil law which would serve as a basis for the territorial courts' practice. Claiborne immediately vetoed it, considering it useless and perhaps injurious to the establishment of common law in Orleans. Moreover, he laid its authorship and backing to a small clique of Jones and Clark supporters in the legislature.⁵⁰

This veto was more than the Legislative Council could accept. It passed a resolution proposing immediate dissolution of the legislature, but the House of Representatives rejected the proposal, and the assembly remained in

⁴⁹Claiborne to Destréhan, May 26, 1806, ibid., 308; Claiborne to Sauvé, May 26, 1806, ibid., 308-309. The House of Representatives nominated Chevalier Lacroix, François Lauvaudais, Jr., James Mather, Sr., and Pierre Foucher to fill the vacancies. The President chose Mather and Foucher. John Watkins to the President, June 12, 1806, Carter (ed.), Orleans Territory, 659-60; Louisiana Gazette, September 26, 1806.

⁵⁰Claiborne to Madison, May 22, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 305-306; Claiborne to Madison, May 26, 1806, ibid., 309-10; Claiborne to Poydras, May 26, 1806, ibid., 314-16; Fortier, Louisiana, I, 218.

session.⁵¹ But, the battle between governor and Council was not over. The proceedings of the Legislative Council in which it adopted the resolution to disband was printed in Le Telegraphe, a French newspaper, for the purpose of obtaining public support. The Council charged that the governor vetoed their "most essential and salutary measures," especially the bill reinstating the old customs and civil laws of Louisiana in preference to the common law. It maintained that as long as such earlier laws were consistent with the Constitution and federal laws they were legal, and that they would ease the transition to American procedures and principles. The councilors resented the governor's use of his veto.⁵² In place of the bill, the legislature adopted a resolution appointing two lawyers to prepare a civil code. James Brown and Moreau Lislet were chosen for the task.⁵³

The issue of common law versus French law in the Orleans Territory was recognized nationally when the National Intelligencier offered an opinion that Louisiana was purchased for the good of the United States and not for that of its inhabitants. It thus concluded that laws similar to

⁵¹Claiborne to Madison, May 28, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 319.

⁵²Excerpt from the session of the Legislative Council of May 26, 1806, reprinted from Le Telegraphe in Carter (ed.), Orleans Territory, 650-57.

⁵³Acts Passed at the First Session of the First Legislature of the Territory of Orleans . . . (New Orleans: Bradford and Anderson, 1807), 214-18.

those of other parts of the United States should be adopted.⁵⁴

Much to the relief of the Governor, on June 7, 1806, the legislature adjourned its first session. While recognizing that a relatively few persons were responsible for its opposition to him, the conduct of the Legislative Council confirmed Claiborne in his earlier opinion that it was dangerous to extend representation to the Louisianians.⁵⁵ Despite the length of the session, few bills of importance emerged from it. These included measures for the regulation of apprentices and indentured servants, for the conduct of territorial elections, for levying a tax on real estate, and for the treatment of "Negroes and other Slaves," that is, a slave code.⁵⁶

About a month after the adjournment, Claiborne left on another tour of the interior provinces for the purpose of feeling the public pulse and organizing the militia. He again traveled up through the Mississippi River counties visiting with various planters along the way. After

⁵⁴National Intelligencier, August 11, 1806 reprinted in the Louisiana Gazette, September 19, 1806.

⁵⁵Claiborne to the President, June 4, 1806, Carter (ed.), Orleans Territory, 657-58; Claiborne to Madison, June 8, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 323-24; Louisiana Gazette, June 10, 1806.

⁵⁶Acts Passed at the First Session of the First Legislature of the Territory of Orleans, 44-56, 78-84, 106-22, 132-46, 150-88.

proceeding as far north as Iberville county, he turned westward to Atakapas and Opelousas, two areas he toured for the first time, and then returned to Concordia and Natchez. Everywhere he went the Governor found the chief complaint of the inhabitants to be the ill-defined judicial system, especially trial by jury which was still strange to them, and the exorbitant fees of attorneys.⁵⁷

As in 1805, the Governor's journey was interrupted by reports of trouble with the Spanish. While at Natchez he received information that the Spaniards had crossed the Sabine River in force and were advancing eastward on American territory. He immediately set out for Natchitoches to rally the local militia until General Wilkinson and regular military reinforcements could reach the area.⁵⁸

The second session of the first territorial legislature began on January 12, 1807, and continued until April. During this period the legislature's attention was captured by the excitement over the exposure of the Burr Conspiracy and the rather despotic actions of General Wilkinson, supported by Governor Claiborne, in seeking to protect the territory from acts of treason and subversion. Claiborne,

⁵⁷Claiborne to Jefferson, July 10, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 361-65; Claiborne to Jefferson, July 11, 1806, ibid., 365-66; Claiborne to the President, July 15, 1806, Carter (ed.), Orleans Territory, 672-74; Claiborne to the President, July 25, 1806, ibid., 677-78.

⁵⁸Claiborne to Dearborn, August 18, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 381.

in his opening speech before the assembly on January 13, 1807, denounced the attack which Burr allegedly planned on Spanish Mexico, and the whole traitorous conspiracy to dismember the Union. He also mentioned several issues, especially the judiciary and militia, which demanded legislative action.⁵⁹ For the next six weeks the legislature largely concerned itself with the threat to the territory posed by Burr and his followers and the controversial acts of Wilkinson in meeting the threat, real or imagined, of disloyalty in the territory.

In the latter part of March, finally, the legislature turned its attention to other matters. On March 31, it passed, and the governor approved, a bill to reorganize the local government of Orleans Territory. It divided the territory into five superior court circuit districts and defined the jurisdiction and proceedings of the new courts. The statute also partitioned the territory into nineteen parishes: New Orleans, St. Bernard, Plaquemines, St. Charles, St. John Baptist, St. James, Ascension, Assumption, Interior, Iberville, Baton Rouge, Pointe Coupee, Concordia, Ouachita, Rapides, Avoyelles, Natchitoches, Opelousas, and Atakapas. For each parish there was to be a judge with civil, criminal, and police jurisdiction. They were to replace the county

⁵⁹Louisiana Gazette, January 16, 1807; Speech to the Assembly, January 13, 1807, Rowland (ed.), Claiborne's Letterbooks, IV, 87-94.

judges who had proved so ineffective and were partially responsible for the disorganized judicial system. The parishes were smaller in area than the counties. The burden of cases on the judges was lighter and the expenses incurred by litigants were less because appearances in court did not require extensive travel. The duties of these judges were stipulated in more detail than had been those of the county judges. In order to protect the people against exorbitant fees, a second act fixed the charge for each of the various duties performed by parish judges and the probate court.⁶⁰

The parish did not completely supersede the county. The latter, for example, remained the basis for determining representation in the legislature and for the apportionment of taxes on lands and slaves. The parish judges, however, were given responsibility for presiding over territorial elections in place of the old county sheriffs. Later, after Louisiana became a state, the parish replaced the county completely as the local unit of government.⁶¹

During this session of the legislature, Claiborne continued to encounter the opposition of certain political groups and individuals. His most inveterate foe was Daniel Clark, an American, not a Creole. Clark, it will be recalled,

⁶⁰Acts Passed at the Second Session of the First Legislature of the Territory of Orleans . . . (New Orleans: Bradford and Anderson, 1807), 2-52, 54-66.

⁶¹Ibid., 74-76, 140-66, 174-76.

had been chosen the territory's Congressional delegate in May, 1806, despite Claiborne's strenuous opposition. Following his election, Clark boasted that within one month of his arrival at Washington Orleans Territory would have a new governor.⁶² Soon after Clark's return to New Orleans in May, 1807, a violent quarrel broke out between him and the Governor. It originated in the publication of an article by the Orleans Gazette reporting that Clark, on the floor of Congress, had charged that at the time of the cession of Louisiana to the United States Claiborne had rejected the offer of the services of the regular provincial militia while accepting those of the free Negroes. Clark was reported to have further charged that Claiborne had done absolutely nothing to organize the militia.⁶³ In an exchange of notes with Claiborne, Clark acknowledged that the remarks were his but refused to retract or explain them. Clark felt politically secure, for soon after his return home he was honored with an elegant champagne dinner at the Commercial Coffee House which was attended by the territorial judges, military

⁶²Claiborne to Graham, June 22, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 340-41.

⁶³Louisiana Gazette, February 13, May 22, 1807; Claiborne to Clark, May 23, 1807, Carter (ed.), Orleans Territory, 738.

personages, governmental officials, and prominent inhabitants.⁶⁴

Feeling that he had not received satisfaction for a serious attack upon his character, Claiborne concluded that he had no choice but to challenge Clark to a duel. As his second the Governor chose John Gurley, while Clark picked Richard R. Keene. After a long series of communications, the two seconds finally agreed upon a date and place for the meeting. It took place on June 8, 1807, across the territorial line at Manchac in West Florida. On the first fire Clark wounded the Governor with a ball which passed through his right thigh and entered his left leg without striking a bone. Claiborne was confined to bed for several weeks, but recovered.⁶⁵ Later regretting his rash conduct, he apologized to the President. The abuse which he had received during the previous year (resulting mainly from the Burr Conspiracy) was more than he could endure, and when he learned of Clark's attack on the floor of Congress, Claiborne had

⁶⁴Clark to Claiborne, May 24, 1807, Papers of Thomas Jefferson, CLXVII; Claiborne to Clark, May 24, 1807, ibid.; Clark to Claiborne, May 25, 1807, ibid.; Claiborne to Clark, May 26, 1807, ibid.; Clark to Claiborne, May 28, 1807, ibid.; Louisiana Gazette, May 29, 1807.

⁶⁵John Gurley to Richard Keene, May 31, 1807, Papers of Thomas Jefferson, CLXVII; Keene to Gurley, May 31, 1807, ibid.; Keene to Gurley, June 2, 1807, ibid.; Claiborne to Jefferson, June 12, 1807, ibid.; Claiborne to the President, June 17, 1807, Carter (ed.), Orleans Territory, 743.

felt impelled to defend his honor.⁶⁶

It was not long, however, before Clark himself fell under attack. By the spring of 1808 he was being unfavorably criticized in both local and national newspapers. Among the charges being aired was that of General Wilkinson that Clark was involved in the Burr Conspiracy.⁶⁷ By January, 1809, Clark was also being criticized by the legislature for not attending properly to the interests of the territory in Congress. It was charged that he had not even taken his seat in the current session of Congress. The House considered taking action against the delegate, but decided against it. Learning of the assembly's discussion, Clark sent the Speaker a letter justifying his conduct and requesting the legislature to appoint a new delegate in his place.⁶⁸ On February 1, 1809, accordingly, the legislature chose Julien Poydras the territory's new delegate to Congress. Clark's choice as his successor had been John Watkins.⁶⁹ Claiborne now had a friend in Congress who would

⁶⁶Claiborne to Jefferson, September 1, 1807, Papers of Thomas Jefferson, CLXX.

⁶⁷Louisiana Gazette, March 22, 1808 republished from La Lanterne Marque; Louisiana Gazette, April 8, 1808; Courier de la Louisiane (New Orleans) March 21, 1808; Louisiana Gazette, May 31, 1808 reprinted from the National Intelligencier; Louisiana Gazette, March 17, 1807 reprinted from the United States Gazette; Louisiana Gazette, June 28, 1808.

⁶⁸Louisiana Gazette, January 20, 1809; Courier de la Louisiane, January 23, 1809.

⁶⁹Courier de la Louisiane, February 1, 3, 1809; Claiborne to Dearborn, February 5, 1809, Rowland (ed.), Claiborne's Letterbooks, IV, 316.

defend his administration of the territory.

The Second Legislature of the Territory of Orleans⁷⁰ met from January 18 to March 31, 1808, and from January 13 to March 21, 1809. It was remarkably different from the First Legislature even though Frenchmen and Creoles once again had a majority in both houses. Its relations with the governor were much improved although he vetoed several of its bills.⁷¹ The legislators were more experienced in the workings of representative government and more intent on trying to deal with local problems than with bickering with

⁷⁰The members of this body were Chavalier de la Croix, John Blanque, Dominique Bouligny, Thomas Urquhart, Joseph Villars, Magloire Guichard, Orleans; Alexandre La Branche, Manuel Andry, German Coast; Joseph L. Fabre, John B. Poeyfarré, Acadia; Henry S. Tibodeaux, J. I. Hebert, La-Fourche; Felix Bernard, Armand Hebert, Iberville; John Birney, Alexander Fulton, Rapides; Eugene D'Orsiere, Armand Bauvais, Pointe Coupée; David Morgan, Concordia; Alexandre De Clouet, Francis Gonsoulin, Atakapas; Francis Robin, Joachin Orthega, Opelousas; Nicholas Lauve, Natchitoches; John Hughes, Ouachita. Louisiana Gazette, December 11, 1807. Thomas Urquhart was elected speaker of the House. Ibid., January 12, 1808. The body remained the same throughout the session of 1808 and 1809 except for some resignations and deaths. During this time Joseph M'Carty died and the House named Manuel Andry and William Wykoff, Jr. to take his place on the Legislative Council. Meeting of January 23, 1809, in the House of Representatives of the Territory of Orleans, Rowland (ed.), Claiborne's Letterbooks, IV, 378-79. Julien Poydras also resigned his seat on the Council and the House nominated Martin Duralde and Thomas Urquhart to the President who chose Duralde. Claiborne to Robert Smith, June 1, 1809, ibid., 375.

⁷¹Claiborne to the Legislature, March 31, 1808, Carter (ed.), Orleans Territory, 779-80; Claiborne to the Legislative Council and the House of Representatives, March 11, 1809, Rowland (ed.), Claiborne's Letterbooks, IV, 325-26.

the governor. As an evidence of its maturity, the legislature created a number of permanent committees, such as those on elections, claims, commerce and manufactures, ways and means, and revised and unfinished business, instead of following its earlier practice of appointing ad hoc committees to consider problems as they arose on the floor of the House. Its discussions of matters of importance were more intelligent and responsible.⁷²

The Governor also developed a more mature outlook on his duties and responsibilities and became more skillful in dealing with the legislature. He at last came to the realization that the agitators who were keeping the territory in a turmoil were not Creoles, but Americans who were disgruntled in part at least because they were not appointed to high positions in the government.⁷³ Some of them were also opportunists who poured into Louisiana in the hope of making an easy killing in land or some other type of speculation.

The Burr Conspiracy, more than anything, was probably the one event which caused Claiborne to realize who the real troublemakers in his midst were. Of all the arrests made in connection with this affair, not one was of a Frenchman or a Creole. They had remained steadfastly loyal to the United

⁷²Louisiana Gazette, January 12, 1808.

⁷³Claiborne to Smith, August 5, 1809, Rowland (ed.), Claiborne's Letterbooks, IV, 399-401; Schachner in Thomas Jefferson, 798, states that trouble came from Americans determined to possess "their inalienable rights."

States government throughout the crisis, while some Americans, including even some trusted friends of the Governor, apparently plotted against the Union. After the destruction of the conspiracy, Claiborne reposed more trust in the Creoles than he ever had before.

Free from squabbling with the Governor, the Second Legislature considered such matters as the inviolability of contracts in relation to the Orleans Navigation Company, the regulation of the practice of attorneys, a code of civil law, and a petition to Congress asking for an increase in the number of judges and legislative councilors. For the first time, the assembly functioned as an effective democratic body with its members debating freely the measures brought before them. The legislative proceedings, with viva voce votes on important questions, were presented to the public through the local newspapers.⁷⁴ This legislature's most important accomplishment was the adoption of a code of civil law.⁷⁵ Despite the governor's opposition, it also adopted a memorial to Congress praying for early admission into the Union as a state. Although favoring modifications in the judicial and legislative provisions of the organic act of

⁷⁴Louisiana Gazette, February 16, 23, 1808; Courier de la Louisiane, January 29, 30, February 6, 1809.

⁷⁵A Digest of the Civil Laws now in Force in the Territory of Orleans with Alterations and Amendments Adopted in its Present System of Government (New Orleans: Bradford and Anderson, 1808).

the territory, Claiborne felt that the people were not yet ready for statehood.⁷⁶

The third and final Legislature met from January 9 to late April, 1810, and from January 28, 1811 to April 30, 1811.⁷⁷ Although saddened by the death of his second wife,⁷⁸ Claiborne opened the first session of the Third Legislature. He praised the people for the large turnout of voters at the last election.⁷⁹ Commenting at length on the current differences existing between the federal government and France and Great Britain, he commended the wisdom of its policy of

⁷⁶Claiborne to Smith, May 18, 1809, Rowland (ed.), Claiborne's Letterbooks, IV, 360-63.

⁷⁷Members of the second session of the Third Legislature were Magloire Guichard, Jean Blanque, Bernard Marigny, Antoine Hyacinthe Hazeur, Charles Fagot, Louis Allard, Orleans; Joseph Dorville, Stephen A. Hopkins, Acadia; Pierre Ple, Pierre Aucoin, LaFourche; Felix Bernard, Pierre Joseph Landry, Iberville; Francis Gonsoulin, Alexandre Declouet, Atakapas; Labarthe Delisle, Joseph H. Ludeling, Pointe Coupée; John Nancarrow, Natchitoches; David Morgan, Concordia; Henry Bry, Ouachita; Rene Trudeau, Alexandre Cabaret, German Coast; Joseph S. Johnson, Alexandre Plauche, Rapides; Daniel J. Sutton, unknown, Opelousas; Fulwar Skipwith, William Barron, Moses Kirkland, East Baton Rouge and Feliciana; Chevalier Dedaux, Beloxi and Pascagoula; unknown, St. Helena and St. Tammany. Courier de la Louisiane, February 1, 6, March 6, 1811; Moniteur de la Louisiane, March 26, 1811.

⁷⁸On September 27, 1806, Claiborne had married Clarice Duralde of Atakapas. She died on November 29, 1809 of yellow fever. Moniteur de la Louisiane, October 11, 1806; Claiborne to Jefferson, January 12, 1810, Carter (ed.), Orleans Territory, 864.

⁷⁹Claiborne had previously complained of the apathy of the Louisiana voters in elections.

economic coercion,⁸⁰ and urged the legislature to foster domestic agriculture and industry to replace foreign imports. He also urged legislation concerning internal improvements and a revision of the judicial, health, and militia laws.⁸¹

One of the first actions of the assembly was to nominate ten persons to the President for the next Legislative Council. From them, President Madison appointed Manuel Andry, Thomas Urquhart, Arnand Beauvais, Jean Noel Destréhan, all natives of the province, and Maturin Guerin, a native of France. All of them had served in the House of Representatives.⁸² In an uneventful session, the legislature again petitioned Congress for statehood. After their adjournment, Claiborne set sail for Baltimore on his first visit to the North since assuming the governorship of Louisiana in 1803.⁸³

The last session of the Orleans legislature began after a state of crisis. In January, 1811, the territory was rocked by a slave revolt which threatened the plantations on the Mississippi River above New Orleans. Since many of the legislators were engaged in protecting their property

⁸⁰Claiborne was here referring to the Embargo and Non-intercourse acts.

⁸¹Louisiana Gazette, January 12, 1810.

⁸²Claiborne to the President, March 4, 1810, Carter (ed.), Orleans Territory, 869-71.

⁸³Louisiana Gazette and New Orleans Daily Advertiser, May 7, 1810.

and putting down the insurrection, Governor Claiborne prorogued the meeting of the assembly until January 28, 1811.⁸⁴ On the twenty-ninth the Governor expressed his pleasure at the United States' recent acquisition of West Florida. He informed the legislature that he, in his executive capacity, had created the West Florida area into the County of Feliciana and the Parishes of Feliciana, East Baton Rouge, St. Helena, St. Tammany, Biloxi, and Pascagoula and had appointed civil officials for them. He requested the assembly to extend to West Florida the right of representation in the legislature and to provide a circuit court for it. With the recent slave revolt in mind, he called for stricter limitations on the importation of slaves and undesirables and the strengthening of the militia. Claiborne also suggested a bankruptcy law and effective educational measures. Lastly, he announced the probable admission of the territory into the Union by Congress then in session.⁸⁵

Acting on the governor's recommendations, the legislature immediately extended representation to Feliciana County authorizing the people to elect five representatives

⁸⁴Claiborne to the Secretary of State, January 29, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 120; Courier de la Louisiane, January 14, 1811.

⁸⁵Claiborne to both Houses of the Legislative Body of the Territory of Orleans, January 29, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 122-26; Louisiana Gazette and New Orleans Daily Advertiser, January 29, 1811; Courier de la Louisiane, January 30, 1811.

to the assembly, and made a superior court.⁸⁶ It also divided the County of Concordia into the two parishes of Concordia and Warren, and Atakapas into the two parishes of St. Martin and St. Mary.⁸⁷ The legislature then remained in session to await news of Orleans' admission into the Union. On March 18, 1811, the Louisiana Gazette and New Orleans Daily Advertiser reported that a bill to authorize the people of the territory to hold a convention and form a state government had passed both houses of Congress. On April 9, it published the enabling bill approved by Congress.⁸⁸ Although no official notification had yet reached Governor Claiborne from Washington of these actions, he decided, on the basis of the newspaper reports, to send a message to the legislature instructing it to provide for the meeting of a constitutional convention.⁸⁹ The legislature immediately

⁸⁶Louisiana Gazette and New Orleans Daily Advertiser, February 7, 1811; Claiborne to Gallatin, February 7, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 146; Acts Passed at the Second Session of the Third Legislature of the Territory of Orleans . . . (New Orleans: Thierry, 1811), 2-4, 80-84.

⁸⁷Acts Passed at the Second Session of the Third Legislature of the Territory of Orleans, 34-40, 104-106.

⁸⁸Louisiana Gazette and New Orleans Daily Advertiser, March 18, April 9, 1811.

⁸⁹Claiborne to the Secretary of State, April 10, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 209; Claiborne to the Legislative Council and House of Representatives, April 10, 1811, ibid., 210. Claiborne did not receive official notification of the Congressional action until May 9, 1811, Carter (ed.), Orleans Territory, 932-33.

passed a bill apportioning representation in the convention according to population and setting as the date of the convention the first Monday in November, 1811. The population of the territory at that time was 76,556 of which 34,311 were white, 7,585 free Negroes, and 34,660 slaves. It was not enough to entitle the territory to statehood under the act of March 2, 1805, but this fact was ignored by Congress. On May 30, 1811, Governor Claiborne issued a proclamation calling for the election of delegates to the convention.⁹⁰

Although its territorial stage was about to end, the legislature turned to the consideration of the selection of a new delegate to Congress. To those who felt it to be an unnecessary action, it was replied that not only was it the legislature's duty to do so, but the delegate could convey the state constitution, which would soon be drafted, to Congress. Finding difficulty in making a choice which would be acceptable to both the legislators and the administration, the legislature decided not to choose anyone.⁹¹ The assembly then took up a controversial bankruptcy bill designed to institute Napoleonic law. The Chamber of Commerce of New

⁹⁰Louisiana Gazette and New Orleans Daily Advertiser, April 17, 20, 1811; Acts Passed at the Second Session of the Third Legislature of the Territory of Orleans, 124-30; "Proclamation," May 30, 1811, Rowland (ed.), Claiborne's Letter-books, V, 261-62; Courier de la Louisiane, May 1, 1811.

⁹¹Louisiana Gazette and New Orleans Daily Advertiser, April 23, 1811.

Orleans and the merchants of the city opposed the measure, but the legislature approved it. When it reached the Governor, he vetoed it on the grounds that it was alien to American jurisprudence and would hinder legitimate merchants trading in New Orleans. Some of the Creoles were displeased with Claiborne's action, but the Americans applauded it.⁹²

On this somewhat controversial note the last legislature of the Territory of Orleans adjourned on April 30, 1811.⁹³

Although relations between the governor and some of the legislators were somewhat strained in the spring of 1811, the people of Orleans had made much progress in adapting to the American system of representative government in the six years in which they were under a second stage territorial government.

Although the legislature had functioned well on the whole, and its relations with the chief executive had steadily improved, the judicial and executive branches of the territorial government had suffered from the rapid turnover of personnel. The secretary and the three Superior Court judges, according to the law of March 26, 1804,

⁹²Ibid., April 24, 25, 1811; Moniteur de la Louisiane, April 27, 1811; "Proclamation," April 25, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 218.

⁹³Message to the Legislative Council and the House of Representatives, April 30, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 228-30; Louisiana Gazette and New Orleans Daily Advertiser, May 2, 3, 1811; Courier de la Louisiane, May 1, 1811.

creating Orleans, were to be appointed by the President for four year terms with a remuneration of \$2,000 annually.⁹⁴ From the beginning there were plenty of applicants for these positions, but few of them qualified, and of those who did qualify and were appointed, very few fulfilled their terms of office. The main factor disqualifying applicants for public office was the lack of proficiency in both the French and English languages. This qualification was essential in a bilingual community. As for the frequent resignations of office holders, there were probably a variety of reasons but the two most generally given were the high cost of living in New Orleans and the unhealthiness of the climate. The basic reason, however, was probably the fact that the appointees were professional office-seekers who moved on as soon as they were offered more attractive posts elsewhere.⁹⁵

As stated previously, President Jefferson originally appointed James Brown of Kentucky, a bilingual lawyer, secretary. He did not reach New Orleans until November 26, 1804, and resigned his office sixteen days later in order to accept the post of Superior Court justice. After being

⁹⁴"An Act for the Organization of Orleans Territory and the Louisiana District," March 26, 1804, Carter (ed.), Orleans Territory, 203, 205-206.

⁹⁵President Jefferson to Claiborne, December 2, 1804, ibid., 342-43. In making appointments in Louisiana, President Jefferson excluded Federalists from consideration. Noble E. Cunningham, Jr., The Jeffersonian Republicans in Power: Party Operations, 1801-1809 (Chapel Hill: The University of North Carolina Press, 1963), 52-53.

confirmed by the Senate, Brown declined to serve, however, because of the insufficiency of the salary.⁹⁶ The President next offered the secretaryship to John Graham of Kentucky, an American diplomat recently returned from Madrid. He accepted it and arrived in New Orleans on June 2, 1805 to take office.⁹⁷ In May, 1806, Graham left on a visit to the United States and did not return until March 3, 1807. A few weeks later he resigned his position in order to return to Washington as a chief clerk in the Department of State.⁹⁸ After Benjamin Morgan was offered the position and declined it, the President gave it to Thomas Bolling Robertson of Virginia.⁹⁹ Robertson arrived in New Orleans November 30, 1807, and acted in Claiborne's place during 1810 when the

⁹⁶President to James Brown, July 20, 1804, Carter (ed.), Orleans Territory, 269; Louisiana Gazette, November 30, 1804; President to Brown, December 1, 1804, Carter (ed.), Orleans Territory, 341-42; Brown to the President, January 8, 1805, ibid., 365.

⁹⁷Jefferson to John Graham, December 1, 1804, Carter (ed.), Orleans Territory, 342; Jefferson to Claiborne, December 2, 1804, ibid., 342-43; Claiborne to Madison, June 3, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 68.

⁹⁸Claiborne to Madison, May 16, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 299; Claiborne to Jefferson, May 19, 1806, ibid., 300-301; Louisiana Gazette, March 3, 1807; Claiborne to the President, May 3, 1807, Carter (ed.), Orleans Territory, 730.

⁹⁹Benjamin Morgan to the President, August 27, 1807, Carter (ed.), Orleans Territory, 762; Louisiana Gazette, September 1, 1807; "Commission of Thomas Bolling Robertson as Secretary," August 12, 1807, December 5, 1811, ibid., 958-59.

Governor visited the North, but Claiborne and Robertson never worked well together.¹⁰⁰

The President had even more difficulty in filling the judicial positions in Orleans Territory. The list of men he appointed was long, including James Brown of Kentucky; John B. Prevost of New York; Ephraim Kirby of Connecticut; George Duffield of Tennessee; Buckner Thruston, John Coburn, and Joshua Lewis of Kentucky; William Sprigg of Ohio; George Matthews, Jr. of Georgia; Francois X. Martin of North Carolina; and J. Moreau Lislet and John Thompson of Orleans Territory. Of the two original appointees, Prevost and Kirby, only the former actually occupied his office. He was the first justice to open the Superior Court in New Orleans and served until October 1, 1806, when he resigned.¹⁰¹ Thurston refused his commission, while Duffield accepted, but, due to the bad effect of the climate on his health, remained in the territory only a brief time.¹⁰² Coburn did not serve.¹⁰³ In 1806, Jefferson reappointed Prevost and

¹⁰⁰Louisiana Gazette, December 1, 1807; Robertson to the Secretary of State, December 20, 1811, Carter (ed.), Orleans Territory, 962-63.

¹⁰¹Judge Prevost to the Secretary of State, March 10, 1806, Carter (ed.), Orleans Territory, 608; Prevost to the Secretary of State, August 8, 1806, ibid., 679.

¹⁰²"Commission of Duffield," March 11, 1805, ibid., 415; Duffield to the Secretary of State, July 23, 1805, ibid., 475-76.

¹⁰³Claiborne to the Secretary of State, November 27, 1805, ibid., 537.

named William Sprigg and George Matthews the second and third Superior Court justices.¹⁰⁴ Matthews served until his death in 1811.¹⁰⁵ However, Prevost resigned because of poor health and inadequate salary, and the difficulties in accommodating the French and American law codes without legislative aid.¹⁰⁶ The President replaced Prevost with Lewis, and Sprigg, who resigned in 1807, with Lislet. Lislet refused the appointment,¹⁰⁷ so it went to John Thompson.¹⁰⁸ The last Superior Court justice to be named was Francois X. Martin, who served until the end of the territorial period.¹⁰⁹

The rapid turnover of justices, combined with the difficulties of introducing English common law into Orleans, kept the judicial department in a turmoil throughout the

¹⁰⁴"Commission of Judge Prevost," January 17, 1806, ibid., 572; "Commission of William Sprigg," January 18, 1806, ibid., 573; "Commission of George Matthews," January 19, 1806, ibid., 573-74.

¹⁰⁵Robert Williams to the President, November 2, 1811, ibid., 952.

¹⁰⁶Judge Prevost to the Secretary of State, March 10, 1806, ibid., 608; Judge Prevost to the Secretary of State, August 8, 1806, ibid., 679.

¹⁰⁷"Commission of Joshua Lewis," November 10, 1806, ibid., 684; J. Moreau Lislet to the Secretary of State, May, 1808, ibid., 785.

¹⁰⁸"Commission of John Thompson," November 14, 1808, ibid., 805-806.

¹⁰⁹"Commission of Francois X. Martin," March 21, 1810, ibid., 880.

territorial period. The main burden of government fell on the governor assisted by the legislature. In the early years, it really fell largely on the governor, for the legislature did not have the necessary experience or maturity to participate effectively in a republican system. By the late territorial period, however, the two branches of the government were capable of handling territorial concerns despite the defects of the judicial branch.

CHAPTER VII

NEW ORLEANS AND THE TERRITORIAL GOVERNMENT

When Governor Claiborne took possession of Louisiana on December 20, 1803, he also assumed control of the municipal government of New Orleans. That day the mayor and municipal council attended the ceremonies of transfer, heard the Governor proclaim that all public officials were to retain their positions and all laws were to remain in effect provisionally, and then returned to their chambers in the Hotel de Ville to adjourn their session and await further instructions from the new governor. The city officials who witnessed these proceedings of transfer had been in office only since November 30--about three weeks. On that day the French Prefect, Pierre Clement Laussat, had abolished the old Spanish Cabildo and replaced it with a municipal body consisting of a mayor, a recorder-secretary, and a council of twelve members. Laussat had appointed Etienne Boré, mayor, Pierre Derbigny, recorder-secretary, and Jean Noel Destréhan, Pierre Sauvé, J. Livaudais, Petit Cavelier, Villeray, Evan Jones, Michael Fortier, William Donaldson, Joseph Faurie, Allard, A. D. Tureaud, and John Watkins members of the council. Jones and Sauvé resigned their

seats upon the commencement of American sovereignty, but the rest adjourned their session until December 24, when Claiborne, as president of the body, met with them and administered to each the oath of allegiance to the United States.¹

In this early period, the Governor handled most of New Orleans's problems in conjunction with the mayor and city council. The usual procedure was for the mayor and council to notify him when a problem arose, suggest a remedy, and await his advice. In most cases, the Governor and municipal officials worked amicably together in promoting the well-being of New Orleans. In the early days of American control, before the incorporation of New Orleans, most of the problems involving territorial-municipal action concerned law and order, health, and regulation of the port.

Probably the city's most difficult task was the maintenance of law and order. As a major port, New Orleans tended to attract a good deal of riffraff from other places.

¹"Procès Verbal of Reinstallation of the Municipal Body on the day of taking possession of the colony by the United States," Conseil De Ville: Proceedings of Council Meetings, No. 1, Book I (Typescript Copy. City Archives, New Orleans Public Library, New Orleans, Louisiana). Hereinafter cited as Conseil De Ville; Session of December 24, 1803, ibid.; "Resolution for the establishment of the Municipal Authority at New Orleans," Documents and Letters of Laussat, Colonial Prefect and Commissioner of the French Government, and of the Commissioners of his Catholic Majesty, From November 30, 1803 to March 31, 1804 (Typescript Copy. City Archives, New Orleans Public Library, New Orleans, Louisiana).

As a frontier community, it also drew the desperate, lawless, and fugitive elements of society. Among its inhabitants were thousands of free Negroes, whom the whites considered to be potentially dangerous, and large and increasing numbers of slaves. There were also present national representatives of many countries, especially Spain and France, who were ready to fight each other at the least provocation. To lessen the chances of violence erupting, the mayor and council adopted several measures. Several had to do with cabarets and taverns. The number of such establishments had increased tremendously in the past few years, many of them serving as haunts for Negro slaves and white slave dealers. In December, 1803, the council resolved that each proprietor must deposit his license with the municipality so that a thorough study might be conducted and a plan proposed to limit the number of such places. The following January, it issued a public notice announcing that the number of saloons in the city and faubourgs would be reduced to sixty and an annual tax of \$60 levied on each. Claiborne objected to the tax, questioning the right of the city to impose any new or additional taxes, but he supported the council's action by issuing an ordinance on February 25, 1804, granting the municipality authority to issue licenses for the keeping of taverns, coffee houses, public billiard rooms, or shops retailing liquor within the

city or suburbs.² Later the Legislative Council extended the right of licensing houses of entertainment outside New Orleans to the county judges.³

In addition to attempting to control potential trouble spots in New Orleans, the council also tried to restrict the entrance of undesirables into the city. Early in 1804, it recommended to Claiborne measures for controlling the admission of Negroes and free mulattoes from the Antilles into the territory.⁴ Acting on the council's suggestion, the Governor issued orders to the military personnel at Plaquemines and the Balize to stop and inspect all ships with Negroes aboard, report to him, and await his approval before allowing the vessels to pass up river. Although these orders were carried out, they evidently proved ineffectual. In March, the city council received a communication that thirteen Negroes from the Antilles, who had been refused admittance on lower Mississippi, were brought in by way of Bayou LaFourche. The city fathers immediately requested Claiborne to arrest

²Session of December 28, 1803, Session of February 22, 1804, Conseil De Ville, No. 1, Book I; An Ordinance, February 25, 1804, Dunbar Rowland (ed.), Official Letterbooks of W. C. C. Claiborne, 1801-1816 (6 vols.; Jackson: State Department of Archives and History, 1917), I, 382.

³An Act to Regulate Taverns and other Houses of Public Entertainment, July 3, 1805, Acts Passed at the Second Session of the Legislative Council of the Territory of Orleans . . . (New Orleans: James M. Bradford, 1805), 52-54.

⁴Claiborne to Etienne Boré, February 8, 1804, Governor's Office: American Documents, 1804-1814 (City Archives, New Orleans Public Library, New Orleans, Louisiana). Hereinafter cited as Governor's Office: American Docs.

the Negroes and question them in an effort to discover who was responsible for their illegal entry. They also appointed several of their own members to investigate the incident.⁵ Claiborne thanked the council for its watchfulness, assured them of his interest in the affair, but stated that it was his sole responsibility to determine what description of Negroes would or would not be permitted to enter the territory. Shortly, thereafter, however, Claiborne redoubled his efforts to halt the introduction of undesirable Negroes by allowing a committee of city officials to inspect the ships after they reached New Orleans.⁶

By June, 1804, the people of New Orleans and the province were alarmed at the prospect of a Negro revolution similar to that experienced by Santo Domingo. Public petitions implored the city council to halt the daily arrival of Negroes, both free and slave, from Santo Domingo, especially those with revolutionary principles, and to stop the carrying away of runaway slaves from the colony by ships' captains. The inhabitants also complained of the increased numbers of runaway slaves [marronnages] who were attacking white people and robbing and plundering their lands and barns. Lamenting the growing disorder in the colony despite

⁵Session of March 17, 21, 1804, Conseil De Ville, No. 1, Book I.

⁶Claiborne to Boré, March, 1804, Governor's Office: American Docs.; Claiborne to Boré, April 25, 1804, ibid.

the best efforts of the governor to prevent it, the municipal council sent him a resolution asking, "That any slave not absolutely recognized to be uncivilized cannot be admitted under any pretext, not even as a servant of the captain or of some passenger, unless he belongs to some resident of the Colony who had taken him along on a sea voyage." The council recommended that a regulation to this effect be published and posted in French, English, and Spanish, and be sent to the commandant at Plaquemines and to the Balize.⁷ Claiborne responded by ordering a special twenty-two man military detachment to the Balize for the express purpose of examining ships with slaves aboard and reinforced the inspection of vessels at Plaquemines.⁸ He refused, however, to limit the entrance of Negroes only to those who were "uncivilized," declaring this would cause an undue hardship on the white refugees from Santo Domingo who were arriving daily in the city with no possessions of worth except for a few loyal slaves. The Governor did agree to permit a committee of the municipal council to question suspect Negroes on their arrival in New Orleans.⁹ The efforts of the Governor and city council to keep undesirable Negroes

⁷Session of June 30, 1804, Conseil De Ville, No. 1, Book I.

⁸Claiborne to James Pitot, July 25, 1804, Governor's Office: American Docs.

⁹Session of July 7, 1804, Conseil De Ville, No. 1, Book I.

out of the city and territory were fruitless. There were simply too many slave traders willing to break the law, too many Louisianians who desperately wanted slaves of any description, and too many waterways capable of being used as importation routes to control the traffic in blacks.

Beside the relatively uncontrolled arrival of Negroes, the city council was also concerned over the arrival of large numbers of white strangers in New Orleans. Yet, it was uncertain of its authority to investigate these new arrivals. Upon asking for his opinion on the matter, Claiborne replied that the municipality had full authority to inquire as to the character of strangers visiting the city and to place under arrest suspicious persons until they could be fully investigated. The Governor would then decide whether or not they should be deported. Claiborne suggested that the city council adopt an ordinance directing heads of families and proprietors of taverns, inns, and boarding houses to report weekly the name, occupation, color, and national origin of every person lodging with them under a penalty of \$50 fine for each failure to do so.¹⁰ Effective enforcement of this act proved impossible, and in 1806 the mayor asked the council to take further action. It merely resolved that he

¹⁰Claiborne to Pitot, August 10, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 301-302; Session of August 16, 1804, Conseil De Ville, No. 1, Book I.

enforce the existing ordinance.¹¹ Later the city passed additional measures to control the entrance of strangers into the city, but they, too, proved ineffectual.¹²

Failing to restrict the entry of undesirables, New Orleans attempted to develop a police force capable of dealing with any trouble which they, or anyone else, might create. For the first few months after American possession, the regular troops and militia units kept order as was explained previously. For example, when the riots erupted at the public balls in January, 1804, in the absence of a regular police force, the municipal authorities called upon the governor to station a militia guard at the ballroom in the future.¹³ On March 31, 1804, Claiborne, by proclamation, created a police force for New Orleans. It provided for the establishment of a watch consisting of the city's free white male inhabitants from seventeen to fifty years of age who had resided there at least thirty days. Exempted from service were certain occupational groups, such as physicians, clergymen, school teachers, regular military personnel. The watch was to be arranged according to quarters of the city,

¹¹Session of January 14, 1806, Conseil De Ville, No. 1, Book II.

¹²Extraordinary session of December 12, 1807, session of January 16, 1808, ibid., No. 2, Book I.

¹³Session of January 25, 1804, ibid., No. 1, Book I; Claiborne to Boré, January 28, 1804, Governor's Office: American Docs.

which in turn were to be subdivided into sections, and the duty was to be rotated. Every night, from eight o'clock to daybreak, a watch of not less than twenty-four persons was to patrol the streets to put down disorders and apprehend people violating police regulations. In particular, the police units were given authority to apprehend slaves on the streets after curfew or suspicious whites, to enter gambling houses, saloons, or houses of ill repute, to disperse crowds, and to arrest soldiers or sailors absent from their military posts after nine o'clock. Each morning at nine o'clock a justice of the peace was to attend the Principal to examine those taken into custody during the previous night to determine if they should be prosecuted or released. To protect the rights of innocent citizens, the act provided fines for members of the guard found guilty of misusing their authority.¹⁴ Later the Governor even authorized the municipality to call for military aid to back up the police as long as such requests passed through him as commander-in-chief.¹⁵

The watch proving unable to maintain law and order, two weeks later the mayor suggested that a Horse Guard be commissioned to pursue runaway slaves in the city and its suburbs. He recommended that a company of twenty-five

¹⁴Ordinance Regulating the City Police, March 3, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 16-19.

¹⁵Claiborne to Boré, April 10, 1804, ibid., 90.

mounted police, preferably white men but if necessary free mulattoes, be organized to patrol ten-league areas at the discretion of the syndic of the district. The cost of the mounted police was to be sustained by a voluntary tax on slaves. Claiborne agreed to the experiment provided the residents paid the expenses of the Horse Guard. He also required that the mounted units be subject to his orders as commander-in-chief, and that he appoint its officers, although the municipality was to organize and regulate the corps. The mounted police, proving excessively expensive, continued only until December, 1805.¹⁶

Next to the policing of the city, the most serious problem which faced New Orleans before its incorporation was health. In this field, the governor usually initiated action which was then put into effect by the municipal council. In April, 1804, for example, Claiborne notified the council in great alarm of the danger from the great number of stray and often rabid dogs roaming the streets. He called upon it to protect the inhabitants from this nuisance and hazard. The council immediately took the problem under consideration and, after much discussion, agreed to an ordinance that authorized the killing of all dogs loose on the streets except for those

¹⁶Session of March 17, 1804, Conseil De Ville, No. 1, Book I; Claiborne to Boré, April 3, 1804, Governor's Office: American Docs.; Arrêté of the City Council, December 14, 1805, Moniteur de la Louisiane (New Orleans), December 18, 1805.

wearing collars with the owner's name engraved on it.¹⁷

While considering how to deal with stray dogs, the council received another alarming letter from the governor which announced an outbreak of smallpox among the passengers aboard a vessel at Plaquemines. The council suggested that the ship be quarantined at Plaquemines and that a guard be detailed to enforce this measure.¹⁸ Claiborne immediately ordered Captain William Cooper, commandant at Plaquemines, to detain the infected persons in the vicinity of the fort until declared free from the disease, and also to instruct the ship's captain that he had to fumigate his ship before ascending the river. These orders were to apply in the future to all vessels carrying the dreaded disease.¹⁹ Approximately at the same time, the Governor forwarded to the city council a letter which he had received from Dr. John Watkins, physician of the port, urging the officials to act to remove the filth-laden barges at the city docks which constituted a danger, especially in hot weather and at low

¹⁷Claiborne to Boré, April 3, 1804, Governor's Office: American Docs.; Claiborne to Boré, May 2, 1804, ibid.; Session of April 4, May 5, 12, and June 2, 1804, Conseil De Ville, No. 1, Book I.

¹⁸Session of May 9, 1804, Conseil De Ville, No. 1, Book I.

¹⁹Claiborne to William Cooper, May 9, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 136.

water, to the health of the inhabitants.²⁰ Upon investigation, the council decided to establish a health committee, on the shore opposite the city, to inspect every vessel entering the river from June 1 to November 1. Slave ships with cargoes from outside of the United States were required to stand inspection opposite New Orleans at all times of the year.²¹

To deal with the many matters affecting the physical well-being of its inhabitants, the city council asked the governor to establish a municipal Board of Health. Claiborne consented and created such a body. It was to consist of five members including two physicians. As its first members, he appointed Drs. Robert Dow and John Watkins, and Gaspard Debuys, Francis Duplessis, and Felix Arnaud. The lay members were chosen on the recommendation of the city council.²² The Board of Health was established none too soon, for several days later there was another outbreak of smallpox in the city. Since the board was not yet active, the city council attempted to discover the number of cases

²⁰Claiborne to James Pitot, May 30, 1804, Governor's Office: American Docs.; John Watkins to Claiborne, May 29, 1804, ibid.; Session of May 30, 1804, Conseil De Ville, No. 1, Book I.

²¹Session of June 2, 1804, Conseil De Ville, No. 1, Book I.

²²Session of June 9, 1804, ibid.; Claiborne to the Mayor and Mayoralty, June 6, 1804, Governor's Office: American Docs.

and identify the victims of the disease.²³ Shortly thereafter, the Board of Health was organized.

Besides the police and public health of New Orleans, both the governor and the municipal administration were concerned with the regulation of the port. By act of Congress, the governor was given full jurisdiction over the port, and in December, 1803, he issued an ordinance establishing fairly detailed shipping regulations for it. The New Orleans council immediately objected to two articles of the ordinance. One deprived the city of the right to use ballast from ships, and the other placed a charge of twenty-five cents on small vessels whether engaged in commerce within or without the province. Claiborne explained that the harbor regulations had been made, with the recommendation of the collector of customs, to promote the interest of the city, and, therefore, if any section injured the municipality it would be modified immediately. He agreed that the city officials should have the right to use ballast to repair the levees and promised that the harbor master would be instructed to deposit it anywhere the municipality recommended. He also consented to reduce or rescind the charge of twenty-five cents on small vessels engaged in provincial

²³ Claiborne to Pitot, June 16, 1804, ibid.; Watkins to Claiborne, June 15, 1804, ibid.; Session of June 16, 1804, Conseil De Ville, No. 1, Book I.

navigation.²⁴ The Governor further decreed that the levees in front of the city and above and below it for six leagues on both banks of the Mississippi were entrusted to the care of the municipality.²⁵ There was no further action concerning the port, by territorial or city officials, until after the territorial legislature met and assumed a voice in the affairs of New Orleans.

The first enactment of the territorial legislature affecting the city was the act of incorporation of February 17, 1805. Under its provisions, the city's officials were to include a mayor, a recorder, fourteen aldermen, a treasurer, and such subordinate officers as should be needed. The governor was to appoint the mayor and recorder annually, while the residents of the city were to elect the aldermen. The act fixed the date for the first city election as the first Monday of March, and that for the installation of the city government as the second Monday of the same month. The council, under this law, was to have authority to make all by-laws and ordinances for the corporation, and to regulate the police and internal order of the city subject to the approval of the mayor, who retained a veto which could be

²⁴Session of January 9, 1804, Conseil De Ville, No. 1, Book I; Claiborne to Boré, January 15, 1804, Governor's Office: American Docs.

²⁵Decree, January 20, 1804, Rowland (ed.), Claiborne's Letterbooks, I, 342-43; Decree, February 5, 1804, ibid., 361-62.

overridden by a two-thirds majority of the council. The mayor and council had authority to levy taxes on real and personal property within the city for the purpose of illumination and repair of the streets, maintenance of the city watch, levees, and public buildings, and such other purposes as the police and government of the city required, but they could not regulate the price of any provision, manufacture, or growth except bread, nor tax butchers, bakers, carts or drays except in the form of a license. The legislature later allowed the municipality to regulate the price of meat and to tax the exempted occupations, as well as to levy fines and penalties for the nonobservance of its ordinances.²⁶

Although the act of incorporation made New Orleans a separate legal entity, the territorial government retained a good deal of control of the municipality. The governor, for example, still had the power of appointing the two top

²⁶An Act to Incorporate the City of New Orleans, February 17, 1805, Acts Passed at the First Session of the Legislative Council of the Territory of Orleans . . . (New Orleans: James M. Bradford, 1805), 44-72; An Act to continue in force the act, entitled "An Act to Amend the Act, entitled 'An Act to Incorporate the City of New Orleans, and for other purposes,'" May 20, 1806, An Act Supplementary to the Sixth Section of the Act, entitled, "An Act to Incorporate the City of New Orleans," June 7, 1806, Acts Passed at the First Session of the First Legislature of the Territory of Orleans . . . (New Orleans: Bradford and Anderson, 1807), 16-18, 86-88; An Act to repeal a provision of the Sixth Section of the Act, entitled, "An Act to Incorporate the City of New Orleans," February 27, 1807, Acts Passed at the Second Session of the First Legislature of the Territory of Orleans . . . (New Orleans: Bradford and Anderson, 1807), 72.

officials of the city government. Before the city's incorporation, two men had held the office of mayor--Etienne Boré and James Pitot--both Creoles. Boré had been appointed by Laussat and retained the position until May 19, 1804, when he resigned probably because of his support for the Louisiana memorial and his feeling that native Louisianians should have a greater voice in the government of the territory, as well as of New Orleans.²⁷ Pitot succeeded Boré as mayor and held the position until October 31, 1804, at which time he submitted his resignation because of his meager salary. The Governor, however, prevailed upon the mayor to continue in office until the Legislative Council should meet to consider incorporation of the city.²⁸ Following the elections of city aldermen in March, 1805, Claiborne reappointed Pitot mayor and named John Watkins recorder.²⁹ In July, however, Pitot resigned and was succeeded as mayor by John Watkins.³⁰ Watkins was one of Claiborne's staunchest

²⁷Claiborne to Boré, May 21, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 154.

²⁸Claiborne to Pitot, September 1, 1804, ibid., 316.

²⁹Claiborne to James Madison, March 8, 1805, James Robertson (ed.), Louisiana Under the Rule of Spain, France, and the United States, 1785-1807 (2 vols.; Cleveland: The Arthur H. Clark Company, 1911), II, 282-83; Louisiana Gazette (New Orleans), March 12, 1805.

³⁰Pitot to the Members of the City Council, July 23, 1805, Mayor's Office: Messages of the Mayors, March 14, 1805-December 30, 1813 (City Archives, New Orleans Public Library, New Orleans, Louisiana), I. Hereinafter cited as Mayor's Office: Messages; Claiborne to Pitot, July 24, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 136.

friends and political allies. During the excitement over the Burr Conspiracy in 1806 and 1807, however, Watkins became involved with the Mexican Association, a group organized for the purpose of revolutionizing Mexico. To the Governor, the Association was implicated in the Burr Conspiracy. He, therefore, asked for Watkins' resignation and replaced him, in March, 1807, with James Mather, an Englishman who had resided in the territory for some thirty-five years. Mather continued as mayor until the end of the territorial period.³¹

In addition to appointing its two top officials, Claiborne had the honor of inaugurating the new city government. At twelve noon, on March 11, 1805, he presided at the installation ceremonies in the Principal or city hall. The Governor proclaimed James Pitot mayor and administered the oath of office to him and to the newly-elected city council members: Felix Arnaud, Jacques Carrick, Joseph Faurie, Francis Duplessis, Guy Dreux, Pierre Bertonniere, Antoine Argotte, Thomas Harmon, Pierre Lavergne, Jean Baptiste M'Carty, Francis Joseph Dorville, Thomas Poree, Francis Martin Guerin, and Joseph Degoutin de Ville Bellechasse.

³¹Louisiana Gazette, March 10, 1807; Claiborne to the Secretary of State, March 27, 1807, Clarence E. Carter (ed.), Orleans Territory, 1803-1812 (Volume IX of Territorial Papers of the United States, Washington: Government Printing Office, 1940), 723-24; Claiborne to the President, May 19, 1807, ibid., 734-36.

Bellechasse was not present at the ceremony.³² The new government was inaugurated at a time when the people of the territory were awaiting the results of their memorial to Congress demanding, among other things, a more democratic government. Claiborne hoped that the installation of an elective council in New Orleans would help to reduce their dissatisfaction with the United States. Furthermore, with New Orleans functioning as an incorporated city, the Governor's responsibilities and duties in regard to its government were reduced. In the future he would not be concerned with routine administrative matters, but only with major questions involving the city's relation with the territory.

Since New Orleans had served as the provincial capital of both French and Spanish Louisiana, before becoming the American territorial capital, public edifices studded the old section of the town. Upon assuming sovereignty over the territory, the United States claimed ownership of all such public property. One of the most important structures was the Government House which was situated in the middle of the town fronting the Mississippi River. It was on a rather large tract of land, extending approximately 220 feet along the river and back to a depth of 336 feet, which accommodated stables and gardens as well as the principal dwelling.

³²"Procès Verbal of Installation of the Corporation for the City of New Orleans and its Banlieue," March 11, 1805, Conseil De Ville, No. 1, Book I.

The house was a large, airy structure designed for the climate of the city. It had been occupied by the Spanish governors and, after December, 1803, served as Claiborne's residence. On the opposite bank of the river was a brick powder magazine, while in the upper part of the city near the river stood the old customhouse, a large wooden building greatly in need of repair. A military barracks, consisting of a row of brick buildings capable of housing from 1200 to 1400 men was located in the lower part of town near the Mississippi. It was joined on one side by a military hospital. While these structures were in good condition, the five original forts--Charles, St. Louis, St. John, Ferdinand, and Burgundy, which encircled the city, were in such a state of neglect as to provide little defense. In addition to these major public buildings, there were also two large brick storehouses, the lower customhouse, two brick cavalry buildings, an artillery park, a public school building, a charity hospital, and the cathedral with the other structures belonging to the church.³³

In reporting on the public property in New Orleans, Governor Claiborne suggested to the Secretary of State that the Federal government donate to the city all unimproved

³³"Queries respecting Louisiana," 1803, enclosed in Daniel Clark to the Secretary of State, September 8, 1803, Carter (ed.), Orleans Territory, 34-35; Claiborne to Thomas Jefferson, October 24, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 207-11.

public lots for public works, and even certain improved ones for the erection of a free school.³⁴ The government, however, retained most of the buildings to accommodate public officials. At Claiborne's suggestion, it leased a few of the smaller buildings to private individuals, using the income to help pay the expenses of the territorial government.³⁵ The Louisiana Gazette claimed that Claiborne was renting these buildings to his favorites and pocketing the money,³⁶ but he denied it.

Governor Claiborne, as the highest ranking civil official in the territory, was responsible for the assignment of public buildings to particular government officials and agencies. In 1805, he became involved in a controversy between Dominick A. Hall, the United States district judge, and Lieutenant Colonel Constant Freeman over the use of the old Spanish school building. Freeman had occupied the building as his private quarters ever since his arrival in the city with no objection on the part of any governmental official. In May, 1805, however, Judge Hall informed the Governor that he had to move his court from the rooms which he had been renting, and requested the chief executive to

³⁴Claiborne to Jefferson, May 29, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 174.

³⁵Claiborne to the Secretary of State, February 6, 1805, Carter (ed.), Orleans Territory, 390.

³⁶Louisiana Gazette, February 1, 1805.

find him a suitable court room. Upon surveying the situation, Claiborne decided that the only public building appropriate for the purpose was that occupied by Freeman. Upon his notifying the Colonel of the necessity of his moving, Freeman stubbornly refused stating that the building belonged to the military establishment and as such was under the direction of the Secretary of War and not the territorial government. The Governor demurred, stating that the old school had never been a part of the military establishment, and that it was not under the jurisdiction of the Secretary of War. He again ordered Freeman to move but with no result. Meanwhile, Judge Hall became exasperated with the delay and threatened to rent a suitable building for his court at an estimated cost of \$1,000 to \$1,500 annually. Finally, Claiborne, Hall, and Freeman appealed to their Washington superiors to decide the issue. While awaiting a decision, the Governor authorized Judge Hall to rent appropriate quarters for his court.³⁷ The Secretary of War gave a non-committal answer, while the Secretary of the Treasury suggested

³⁷Dominick Hall to Claiborne, May 13, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 55-56; Claiborne to Freeman, May 14, 1805, ibid., 56; Hall to Claiborne, June 1, 1805, ibid., 60-61; Freeman to Claiborne, June 2, 1805, ibid., 62-63; Claiborne to Freeman, June 3, 1805, ibid., 63-64; Claiborne to Freeman, June 5, 1805, ibid., 71; Claiborne to Freeman, June 5, 1805, ibid., 72; Claiborne to Hall, June 6, 1805, ibid., 74-75; Hall to Claiborne, June 6, 1805, ibid., 75-76; Claiborne to Madison, June 6, 1805, ibid., 76-77; Hall to the Secretary of the Treasury, June 3, 1805, Carter (ed.), Orleans Territory, 472.

that the matter be presented to the President for his decision. President Jefferson then requested Claiborne to send him a complete listing of all the public buildings in New Orleans, their present use, and recommendations for their future use.³⁸

While the Governor was attempting to settle the dispute between the civil and military authorities over the occupancy of the school building, a third party entered the contest. The mayor of New Orleans requested that the building be turned over to the city to house a library which was to form a part of the University of Orleans. According to the mayor, there was no other building suitable for a library to which the city had a just claim. The Governor forwarded the mayor's request to the Secretary of State for his decision.³⁹ Freeman finally vacated the building, and the district court moved in, but Claiborne recommended that

³⁸Henry Dearborn to Freeman, June 14, 1805, Letters Sent by the Secretary of War, Relating to Military Affairs, 1800-1889 (Records of the Office of Secretary of War. File Microcopies of Records in the National Archives: No. M-6. Microfilm in possession of author), II, 339-40; Secretary of the Treasury to the President, July 9, 1805, Carter (ed.), Orleans Territory, 471-72; Claiborne to Jefferson, October 10, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 193-94.

³⁹Watkins to Claiborne, August 2, 1805, Carter (ed.), Orleans Territory, 487-88; Claiborne to Watkins, Rowland (ed.), Claiborne's Letterbooks, III, 147-48; Claiborne to Madison, ibid., 148-49.

it eventually revert to its former educational purpose.⁴⁰ Thus ended a relatively minor, but time-consuming issue--the first between the civil and military authorities of the territory.

In 1805, the city of New Orleans became involved in a squabble with the Federal military and civil authorities over the payment for paving sidewalks in front of the military barracks and the Government House. The city council issued an arrêté, or ordinance, ordering property owners to repair the banquettes and street gutters fronting their property or pay the cost of the city's having it done. According to the council, the arrêté covered all property, public as well as private, so when the United States government did not improve the sidewalks adjoining the barracks, the city had the work done at a cost of \$642 and presented the bill to Governor Claiborne. The Governor sarcastically notified Lieutenant Colonel Freeman that, since he claimed to be in charge of all Federal property accommodating troops, he must also be responsible for the bills affecting such property.⁴¹ Freeman, however, refused to pay the bill, and Claiborne once again had to bring a relatively minor issue before his superiors. He explained the situation to

⁴⁰Claiborne to Jefferson, October 24, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 207-11.

⁴¹Claiborne to Freeman, June 12, 1805, ibid., 91-92; Claiborne to Freeman, June 13, 1805, ibid., 94.

Secretary of State Madison and implored him to settle the account immediately, since delay might retard the completion of the paving work which was so necessary for the health of the city. Claiborne estimated that the banquette work for all the lots owned by the United States would cost about \$3,000, but added that it would enhance the value of the property. The Governor requested the mayor to suspend all work on government property until he should hear from the Secretary of State.⁴² The Secretary of War, in the meantime, ordered Freeman to pay for the work already completed, but to countenance no more improvements. Shortly thereafter Claiborne received a second bill from the city for \$420 for the repairs to the sidewalks in front of the Government House. At first, the Federal government refused to pay it, for the United States Attorney General held that charges for such improvements were in reality a form of tax, and no agency of the government of Orleans could tax federal property. The federal authorities later reversed themselves, however, taking the position sidewalk construction was an improvement of property and not a tax.⁴³

⁴²Claiborne to Madison, July 27, 1805, ibid., 136-37.

⁴³Richard Claiborne to the Secretary of State, March 6, 1806, Carter (ed.), Orleans Territory, 607; Secretary of State to Claiborne, June 9, 1806, ibid., 658-59; Secretary of State to Claiborne, February 14, 1807, Domestic Letters of the Department of State, 1784-1906 (General Records of the Department of State. File Microcopies of Records in the National Archives: No. M-40. Microfilm in possession of author), XV, 196. Hereinafter cited as S.D. Domestic Letters.

At the same time they were demanding payment for the cost of improving Federal property, the city officials also came into conflict with the territorial government over the quartering of the town guard. In July, 1805, the council asked Governor Claiborne to evacuate the regular United States troops from the first floor of the Hotel de Ville so that the town guard could occupy it.⁴⁴ The Governor agreed if the gendarmerie was to be a night watch only. If, however, it was to serve both day and night, Claiborne felt that regular troops could serve more expediently and economically.⁴⁵ The council insisted that the town guard be used, and the regular troops evacuated the Hotel de Ville.⁴⁶

The city guard, for whom the quarters in the Hotel de Ville were required, was actually a paid company of the First Regiment of the territorial militia under the command of Colonel Bellechasse. As such, its actions were the direct responsibility of Governor Claiborne as commander-in-chief of the militia. The Governor commissioned its officers, as he did all other militia officers, but the

⁴⁴Session of July 20, 1805, Conseil De Ville, No. 1, Book II; Watkins to Claiborne, July 26, 1805, Carter (ed.), Orleans Territory, 481-83.

⁴⁵Claiborne to Watkins, August 21, 1805, Mayor's Office: Messages, I.

⁴⁶Session of August 14, 1805, Conseil De Ville, No. 1, Book II; Claiborne to Lieutenant Colonel Freeman, August 18, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 176-77; Claiborne to Watkins, August 19, 1805, Mayor's Office: Messages, I.

mayor and city council organized and directed the unit under the authority given them by the act of incorporation to maintain the police and internal security of New Orleans.⁴⁷ Instead of fulfilling its functions, the guard contributed to the disorder and lawlessness of the city and became the cause of much complaint among the inhabitants. The members of the guard were themselves riotous and debauched. They caroused in the cabarets all night and committed acts of violence, especially against the Negroes, while neglecting their police functions. At least one citizen blamed the Governor directly for this guard's actions, since he commissioned its officers. Complaints became so loud that even the grand jury of the territory was moved to declare that the police were entirely useless and pitifully organized. It charged that robberies and assassinations occurred almost at the door of the guardhouse itself. Finally, the city council voted to keep the guard, but to reform it.⁴⁸ By August, 1808, disturbances, especially fights among sailors, reached such a height that the city authorities had difficulty in putting them down. Claiborne, who was then out of the city, hurried back to New Orleans fearful that a foreign nation

⁴⁷Session of August 31, 1805, Conseil De Ville, No. 1, Book II.

⁴⁸James Brown to John Breckinridge, September 17, 1805, Carter (ed.), Orleans Territory, 510; Session of August 31, 1805, Conseil De Ville, No. 1, Book II; Charge of the Grand Jury of the Territory of Orleans, April 23, 1806, Mayor's Office: Messages, II.

might be involved in the disorders, but, on his arrival, determined that the incidents were nothing more than brawls among the various nationalities of seamen in the city.⁴⁹

Claiborne realized that the guard would have to be reformed. One abuse which particularly required correction was the practice of guardsmen to hire substitutes, often undesirables, to perform their patrol duty for them. In 1809 the Governor forbade this practice.⁵⁰ Despite periodic attempts by both the city and territorial officials to improve the police of the city, it remained ineffective throughout the territorial period, except for the early months when the United States troops performed the function.

Still another dispute arose between New Orleans and the territory concerning the forts and batteries within the limits of the city. The mayor and council claimed the land on which these forts was situated as part of the commons of the city. They declared that the fortifications were no longer of any use for defense and were detrimental to the health of the inhabitants because of the ditches of stagnant water which surrounded them and because they prohibited the

⁴⁹Louisiana Gazette, September 27, 1807, August 5, 1808; Claiborne to Thomas B. Robertson, August 18, 1808, Rowland (ed.), Claiborne's Letterbooks, IV, 191-92; Claiborne to Martin Duralde, August 29, 1808, ibid., 194-95.

⁵⁰General Orders, July 29, 1809, Louisiana Gazette, August 11, 1809.

growth of the city by their locations.⁵¹ Claiborne replied that the fortifications were Federal property, and that the city could claim them only through legal action. Impressed, however, with the health menace caused by stagnant waters around the forts, he did authorize the demolition of all but Forts Charles and St. Louis, where United States troops were stationed. Claiborne agreed to the draining of the ditches surrounding the two active posts, if it was done under the direction of Lieutenant Colonel Freeman.⁵² By 1808 the federal government also abandoned Fort St. Louis. As a defensive installation, it was useless since it was surrounded by houses and actually divided the city from the suburb of St. Mary. Abraham D. Abrahams, military agent in New Orleans, suggested that the fort be demolished and the materials used at Plaquemines. The city again applied for permission to fill up the ditches of the fortification because of the health danger they posed. Governor Claiborne consented to both measures, but the mayor of New Orleans

⁵¹Pitot to the City Council, July 19, 1805, Mayor's Office: Messages, I; Session of July 30, 1805, Conseil De Ville, No. 1, Book II; Watkins to Claiborne, July 26, 1805, Carter (ed.), Orleans Territory, 481-83.

⁵²Claiborne to Watkins, August 2, 1805, Mayor's Office: Messages, I; Claiborne to Watkins, August 18, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 177-78.

refused to initiate work until the next year.⁵³ Thus after 1809 only one of the original Spanish fortifications remained in the city. That was Fort St. Charles which guarded the river entrance into New Orleans. The land upon which the others had stood remained in litigation until after the territorial period ended.

The whole problem of the extent of the commons of New Orleans continued to the end of the territorial period. The city authorities naturally tried to claim as much land as possible under old French and Spanish decrees. In support of their position, they hired two lawyers, Lewis Kerr and Pierre Derbigny, to search for legal documents on which they could make a case.⁵⁴ They also asked Daniel Clark, the territorial delegate to Congress, to convey to the President their request that he recommend to Congress that it confirm the claims of the city to the commons and buildings not used by the federal government. The President, although sympathetic with the request, wanted to delay congressional action until the reports of the land commissioners of Orleans

⁵³Claiborne to Dearborn, March 17, 1808, Letters Received by the Secretary of War, Main Series, 1801-1870 (Records of the Office of Secretary of War. File Micro-copies of Records in the National Archives: No. M-221. Microfilm in possession of author), XVIII; Claiborne to the Mayor, March 8, 1808, Mayor's Office: Messages, III; Mayor to the City Council, March 6, 1808, ibid.; Mayor to the City Council, March 4, 1809, ibid.

⁵⁴Derbigny and Kerr to the Mayor, October 6, 1806, Governor's Office: American Docs.

and of Governor Claiborne on this matter reached Washington. Clark suggested that the city defer to the President's wishes,⁵⁵ but he put the issue before Congress in March, 1807, and it passed a bill granting to the city that part of the commons which was contiguous to the town beginning at the fortifications surrounding New Orleans and extending six hundred yards outward, provided the city relinquish its claim within six months to land beyond the six hundred yards and keep vacant a strip within the six hundred yard area for the use of the Orleans Navigation Company in extending the Carondelet Canal to the Mississippi River. The city accepted the offer with an understanding that the commons adjacent to the city included an area or strip six hundred yards on all sides of the city except for the land reserved to the Navigation Company and any previous cessions made by the French or Spanish governments.⁵⁶ Secretary of the Treasury Gallatin rejected the city's terms on the ground that it was claiming more land than Congress had granted (for example, the land between the Mississippi River and the city buildings which were adjacent to the unfortified front of the city), and on the ground that the corporation had the right to accept or reject the offer of Congress, but could make no

⁵⁵Clark to the Mayor and Aldermen, December 31, 1806, ibid.; Clark to the Mayor and Aldermen, January 15, 1807, ibid.; Clark to Watkins, January 22, 1807, ibid.

⁵⁶Session of June 10, 1807, Conseil De Ville, No. 1, Book III.

conditions of its own.⁵⁷ The controversy between the city and federal government continued until February, 1811, when Congress passed a second act reaffirming the grant of 1807, despite the fact that the city had not met the stipulations of that law.⁵⁸

The land which became involved in the most famous dispute in the territory was the batture. This was the shoal on the east bank of the Mississippi River in front of New Orleans produced by deposits of mud during its annual inundations. When the river was high, the batture was covered with water and actually formed a part of the bed of the stream, but at other times it was exposed. It then provided several vital public services, such as a source of dirt needed for raising the streets and levees, as a building material for public and private structures, and as a landing place for small boats. The batture, according to many citizens, had always been under the jurisdiction of New Orleans. In 1805, however, Edward Livingston laid claim to the batture of the faubourg or suburb St. Mary on the basis of a former title of John Gravier which came into his possession.⁵⁹ When the city officials refused Livingston's

⁵⁷Extract from a letter by Albert Gallatin to James Brown, October 31, 1807, Rowland (ed.), Claiborne's Letter-books, IV, 136-38; James Brown to James Mather, November 12, 1807, Governor's Office: American Docs.

⁵⁸United States Statutes at Large, II, 617-21.

⁵⁹Session of October 26, 1805, Conseil De Ville, No. 1, Book II.

claim, he took the case before the Superior Court of the territory, which, on May 20, 1807, decided in his favor. Claiborne, who had been following the proceedings with interest, disagreed with the court's decision, holding that the batture of St. Mary's really belonged to the United States government.⁶⁰ Shortly thereafter, Livingston employed a number of Negroes to dig a canal on the batture, but the citizens of New Orleans angrily drove them off. This incident occurred while the Governor was away visiting in the country, but following his return, some citizens of the city again drove off a work party sent to the batture by Livingston. The Governor hurried out to quiet the crowd. While urging them to respect the decision of the Superior Court, at the same time he told the angry citizens that he had already informed the President of their views on the ownership of the batture.⁶¹

President Jefferson, upon learning of events in Louisiana, consulted the Attorney General who declared that Livingston was subject to removal as an intruder upon government lands under the act of March 3, 1807, which prevented settlements on lands ceded to the United States unless

⁶⁰Claiborne to the President, May 20, 1807, Carter (ed.), Orleans Territory, 736-37; Session of May 20, 1807, Conseil De Ville, No. 1, Book III.

⁶¹Louisiana Gazette, September 18, 1807; Charles Gayarré, History of Louisiana (4 vols., 4th ed.; New Orleans: Pelican Publishing Company, 1965), IV, 185-90.

authorized by law. Secretary Madison thereupon wrote to Claiborne enclosing instructions to the marshal of the territory to remove Livingston and all other persons who had taken possession of the batture. Madison authorized the Governor to back up the marshal's action with military force if necessary. On January 25, 1808, Marshal Francis LeBreton Dorgenoy proceeded to the batture and forced Livingston's laborers to leave.⁶² The following year President Jefferson, in his message to Congress of March 7, 1808, based the government's claim to the batture on the fact that it had been public property at the cession of Louisiana and asked that body for its determination of the matter.⁶³ At approximately the same time, Edward Livingston applied to the President to intervene in his favor, but to no avail.⁶⁴ In December of the same year, the people of Orleans Territory

⁶²Madison to Claiborne, November 30, 1807, S.D. Domestic Letters, XV, 243; F. LeBreton Dorgenoy to Madison, January 27, 1808, Territorial Papers: Orleans Series, 1794-1813 (General Records of the Department of State. File Microcopies of Records in the National Archives: No. T-260. Microfilm in the New Orleans Public Library, New Orleans, Louisiana), IX. Hereinafter cited as S.D. Territorial Papers. Livingston later brought suit against Dorgenoy in the District Court of the Territory of Orleans for possession of the batture but lost the case. Smith to Tully Robinson, October 12, 1810, S.D. Domestic Letters, XIII, 452.

⁶³Louisiana Gazette, May 3, 1808; James D. Richardson (ed.), A Compilation of the Messages and Papers of the Presidents, 1789-1902 (10 vols.; New York: Bureau of National Literature and Art, 1903), I, 442-43.

⁶⁴Madison to Livingston, May 20, 1808, S.D. Domestic Letters, XV, 286.

presented a petition to Congress asking the United States government to transfer its claim to the batture to New Orleans with the understanding that it would be maintained permanently as common land.⁶⁵ Meanwhile, Governor Claiborne supported the pleas of the Orleanians by sending all pertinent materials he could collect on the issue to President Jefferson and Secretary of State Madison.⁶⁶ In December Edward Livingston also petitioned Congress in support of his claim to the batture.⁶⁷

After having the matter before it for over two years, in April, 1810, Congress postponed the batture claim indefinitely.⁶⁸ Livingston then filed suit against ex-President Jefferson for possession of the batture.⁶⁹ The suit was heard in the United States District Court at Richmond. Governor Claiborne and Mayor Mather contributed materially

⁶⁵Petition to Congress by the Inhabitants of the Territory of Orleans, December 6, 1808, Carter (ed.), Orleans Territory, 1808; Annals of Congress, 10 Cong., 2 sess., 702.

⁶⁶Claiborne to Jefferson, October 24, 1808, Rowland (ed.), Claiborne's Letterbooks, IV, 232-33; Claiborne to Madison, November 14, 1808, ibid., 250-51; Claiborne to the Mayor of New Orleans, November 17, 1808, ibid., 252-53; Claiborne to Madison, January 2, 1809, ibid., 285.

⁶⁷Courier de la Louisiane (New Orleans), January 3, 1809.

⁶⁸Annals of Congress, 11 Cong., 2 sess., 1935.

⁶⁹Jefferson to Claiborne, July 17, 1808, The Papers of Thomas Jefferson, 1651-1826 (Division of Manuscripts, Library of Congress), CLXXIX.

to Jefferson's defense by sending him copies of laws, arguments, and court files from New Orleans.⁷⁰ Finding that it had no jurisdiction in the matter, the court dismissed the suit.⁷¹ By his defense of the government's claim to the batture President Jefferson earned the gratitude of the people of Orleans Territory. In 1810 the legislature adopted a memorial of thanks to Jefferson for his service to the people of the territory in preserving the batture to them and their posterity.⁷² More important was the fact that Governor Claiborne shared in the gratitude of the people. He had consistently supported the position that the batture was public property and had done all in his power to foster the Orleanians' claim in Washington. The actions of the Governor in this incident probably had a great influence on the favorable opinion that was beginning to develop among the inhabitants toward him, and probably had a great deal to do with his election as the first governor of the state of Louisiana.

While the governments and people of New Orleans and Orleans Territory were involved in the question of the ownership of the batture, they became concerned with a more

⁷⁰Jefferson to Claiborne, June 11, 1810, ibid., CXC; Mather to Jefferson, November 30, 1810, ibid., CXCI; Mather to Claiborne, August 5, 1810, ibid.; Claiborne to Jefferson, August 13, 1810, ibid.

⁷¹Jefferson to Claiborne, May 3, 1810, ibid., CXCV.

⁷²Jefferson to Claiborne, May 3, 1810, ibid., CXC.

important problem. In May, 1809, ships began entering the Mississippi River filled with refugees from Santiago, Havana, and other Cuban ports. The refugees were Frenchmen, often accompanied by their slaves, who were forced to leave the Spanish island because France and Spain were at war. The refugee ships were stopped at Plaquemines and were then permitted to pass up to New Orleans by the Governor's orders. However, the importation of slaves from abroad was illegal, so they were held on board the ships opposite the city. The vessels themselves were seized by the collector of customs for breaking the laws of the United States.⁷³

The French refugees notified Governor Claiborne that their only desire was to settle as farmers in the interior of the territory, and that they hoped that Congress would pass a special law permitting them to retain their slaves. Although sympathizing with their plight, Claiborne informed the exiles that he did not possess authority to allow them to keep their Negroes. While regarding the French refugees to be good, upstanding planters and mechanics who posed no threat to the internal security of the territory, he noted that their numbers would increase the French population of Orleans and thus retard its Americanization. While not objecting to the admission of the emigres, Claiborne did

⁷³Claiborne to Jefferson, May 17, 1809, Rowland (ed.), Claiborne's Letterbooks, IV, 356-57; Claiborne to Captain Many, May 18, 1809, ibid., 358-59; Claiborne to Many, May 18, 1809, ibid., 358-59.

attempt to stagger their arrival by detaining some of them at Plaquemines until others could be dispersed in the countryside.⁷⁴ Ex-President Jefferson concurred in Claiborne's views that humanitarianism required the admittance of the Cubans into the United States.⁷⁵

Although the arrival of the refugees was a federal and territorial problem, it was also a concern of New Orleans, because it was their port of entry. Since they had no means of support, they were thrown upon the generosity of the people of New Orleans. The city council immediately resolved to establish a welfare committee to procure pecuniary aid and employment for the unfortunate Frenchmen of whom there were nearly a thousand by June, 1809, with more expected.⁷⁶ On May 30, the Committee of Benevolence was formed and opened a subscription for Cuban relief in New Orleans and elsewhere in the territory.⁷⁷ The refugees were industrious and orderly and quickly entered a trade, thus contributing to the economic well being of the city. Mayor Mather was of the opinion that most of them would have preferred to move to the interior of the territory, but were

⁷⁴Claiborne to Robert Smith, May 20, 1809, ibid., 363-66.

⁷⁵Jefferson to Claiborne, September 10, 1809, Papers of Thomas Jefferson, CLXXXVIII.

⁷⁶Session of May 24, 1809, Conseil De Ville, No. 2, Book II.

⁷⁷Louisiana Gazette, June 6, 1809; Claiborne to Julien Poydras, June 4, 1809, Carter (ed.), Orleans Territory, 843.

prevented from doing so by the detention of their slaves at New Orleans.⁷⁸

By June, 1809, the number of refugees had increased to nearly two thousand, and they were still arriving daily. The Governor found it impossible to detain all the Negroes on ships in the river, so he authorized the placing of them in the possession of their masters with security that they would be brought forward when required by law.⁷⁹ Much of the security came from the subscriptions raised in New Orleans and throughout the territory.⁸⁰ Congress then passed a bill authorizing the President to remit any penalty or forfeiture incurred by any person or persons forcibly exiled from Cuba for bringing in slaves in violation of federal law. This measure covered thirty-four vessels carrying 1,979 Negroes which had arrived in New Orleans from Cuba prior to

⁷⁸Mather to Claiborne, August 7, 1809, Rowland (ed.), Claiborne's Letterbooks, IV, 404-408.

⁷⁹Claiborne to the Secretary of the Treasury, June 21, 1809, Carter (ed.), Orleans Territory, 847-48. Claiborne entertained doubts concerning his authority to release the slaves into the custody of their masters under the Congressional law of 1808. However, he felt that to send them out of the territory or to imprison them would have incurred a tremendous expense while at the same time their owners would have been thrown upon the community as paupers. Claiborne to Smith, June 26, 1809, S.D. Territorial Papers, X; Claiborne to Graham, July 19, 1809, Rowland (ed.), Claiborne's Letterbooks, IV, 390-91.

⁸⁰Mather to Claiborne, July 18, 1809, Rowland (ed.), Claiborne's Letterbooks, IV, 387-89.

July 10.⁸¹ Since there was danger that French exiles from other Spanish colonies might wish to emigrate with their slaves to Orleans, Governor Claiborne, on the advice of Secretary of State Smith, notified American agents in such colonies that the law applied only to refugees from Cuba.⁸² By the fall of 1809 the flood of exiles from Cuba began to level off and those already in the city dispersed throughout the territory.

⁸¹United States Statutes at Large, II, 549-50; Smith to Philip Grymes, July 21, 1809, S.D. Domestic Letters, XV, 374; Smith to Grymes, August 16, 1809, ibid., 382-83. The bill also authorized the President to make arrangements with the Minister Plenipotentiary of France for transporting any of the exiles who desired to go to any port or place under French control.

⁸²Secretary of State to Claiborne, September 12, 1807, Carter (ed.), Orleans Territory, 850.

CHAPTER VIII

COMMERCIAL ACTIVITY

The United States purchased Louisiana in 1803 primarily for the purpose of acquiring a free commercial outlet through the lower Mississippi River to the Gulf of Mexico. The port of New Orleans was not only the trade center of the lower Mississippi but the guardian of its mouth. The commerce it handled was of three types--foreign, principally from the West Indies and Europe; American chiefly from the trans-Allegheny region; and within the province of Louisiana. Commercial activity, together with agriculture, formed the backbone of the territory's economy. Therefore its government attempted to foster both, and the two were so closely intertwined that the same legislation often stimulated both. At times commerce lagged, as for example during the early period of economic restriction, but generally it experienced a slow, steady growth. Whether the trade which flowed through Orleans was legal or not, it greatly benefited the overall economic conditions of the territory and its people. Within a month after arriving in New Orleans, Governor Claiborne exclaimed "New Orleans is a great, and growing City. The commerce of the Western Country concentrates at

at this place, and there appears to be a moral certainty [sic], that in ten years, it will rival Philadelphia or New York."¹ Although the Governor exaggerated, his central thesis was correct. New Orleans was the natural trade center for the vast, developing Mississippi Valley.

With the transfer of Louisiana to the United States in December, 1803, the port of New Orleans closed down temporarily because the merchants lacked permission to sail their vessels under the American flag. On February 25, 1804, however, Congress passed and the president approved an act recognizing certain Spanish and French registered ships as American.² To Hore Browse Trist, collector of customs for the District of Orleans, fell the task of enforcing this law and other commercial regulations. Trist, having held a like position at Natchez, performed his duties well until his death of yellow fever in August, 1804. William Brown, the deputy collector, succeeded him.³ With the establishment of commercial regulations and the appointment of customs officials, trade activity in New Orleans gradually increased until it surpassed its level under the Spanish government.

¹Claiborne to the President, January 16, 1804, Clarence E. Carter (ed.), Orleans Territory, 1803-1812 (Volume IX of Territorial Papers of the United States, Washington: Government Printing Office, 1940), 161.

²United States Statutes at Large, II, 259-60.

³Claiborne to the President, August 29, 1804, Carter (ed.), Orleans Territory, 279-80; Louisiana Gazette (New Orleans), December 28, 1804.

Yet the government's regulation of the expanding commerce of the territory proved a difficult task for a number of reasons. First, and most importantly, with Spanish dominions on both the east and west, it was impossible to guard the entire international boundary against illegal traffic. The task was made more difficult by the fact that the United States claimed as part of the purchase Spanish-controlled West Florida, thus making it necessary to extend trading privileges to the inhabitants of that area while not being able to enforce United States commercial regulations there. When England and Spain went to war against Napoleon, West Florida became a source of much needed goods, such as cotton, for the two allies. Secondly, since the Spanish government had been notoriously lax and corrupt in enforcing its trade laws while in possession of Louisiana, the merchants of the province had developed a negligent and contemptuous attitude towards commercial regulation which carried over into the American era. Thirdly, it was difficult to appoint competent port officials in the ceded region. Although Trist did a good job, his successor in office, Brown, became involved in the biggest theft in the annals of the territory. Subordinate commercial positions were not considered lucrative enough to attract competent men, so they usually were given to professional office seekers, many of whom were from outside of the territory. Such appointees were not very interested in their work and resigned frequently. Fourthly, there were experienced smugglers within

Louisiana whose knowledge of the territory allowed them to continue their illicit trade activities despite the best efforts of governmental agents to halt their operations.

The extensive activities of Louisiana smugglers and scanty records make it impossible to estimate accurately the amount of trade carried on through the port of New Orleans, although from available evidence some conclusions can be drawn. In 1803, Daniel Clark, American consul at New Orleans, reported that in 1802, 286 vessels of all descriptions entered the Mississippi River, while 265 departed. These vessels were of Spanish, French, and American registry. The total tonnage of the incoming ships was 23,725, while that of those departing was 31,241. The exports were valued at \$1,972,000. These figures did not include vessels involved in the Gulf coastal trade. The major exports of the province were cotton, sugar, molasses, indigo, peltries, and lumber, while the principal imports included cloth, building materials, liquor, coffee, and furniture, ploughs, scales, carts, and fire engines. Most of the exports were carried in American vessels and were destined for markets in the United States.⁴ By 1806, 40,000 tons of shipping passed through the port of New Orleans while the aggregate value of

⁴"Queries respecting Louisiana, with Answers," 1803, enclosed in Daniel Clark to the Secretary of State, Carter (ed.), Orleans Territory, 44-46; Francois-Xavier Martin, The History of Louisiana From the Earliest Period (2nd ed.; New Orleans: Pelican Publishing Company, 1963), 311-18.

imports and exports amounted to nearly \$6,000,000.⁵ The seemingly contradictory drop in tonnage and rise in value of shipping was accounted for by the fact that war had again broken out in Europe causing a rise in prices and a drop in the number of vessels engaged in oceanic trade. Of these 40,000 tons of shipping, approximately 27,000 belonged to New England merchants. In 1809, 267 ships, 679 flatboats, and 392 keelboats arrived in New Orleans.⁶ Although no tonnage or value was cited, it can be assumed that there was a considerable increase in trade over previous year.

The steady development of commercial activity in New Orleans, although based upon the city's location on the major trade artery into the interior of the United States, was fostered by the merchants, as well as the federal, territorial, and municipal officials and policies. Thus they chartered banks, a marine insurance company, and a navigation company, improved and enlarged port facilities, and had lighthouses erected.

As early as March, 1805, a group of New Orleans merchants gathered at the house of Joseph Tricou, where they resolved to establish a company of marine insurance and to petition the Legislative Council for a charter. Moving rapidly, the merchants presented their petition on March 5,

⁵Louisiana Gazette, August 8, 1806.

⁶Ibid., September 20, 1810.

1805,⁷ and the legislature responded with an act chartering the New Orleans Insurance Company with a capital of \$200,000 and prescribed the organization of the new corporation. It authorized the company to insure vessels, freight, money, goods, wares, and merchandise and to fix premiums for such insurance.⁸ The company prospered, for in the first year the president and directors were able to pay a dividend of twenty-five per cent.⁹

Approximately three months later, the Legislative Council passed an act authorizing the creation of the Orleans Navigation Company with a capital stock of two thousand shares not exceeding one hundred dollars each and empowered it to construct and improve roads and canals within the territory. The company was permitted to levy a toll on all vessels, horses, or carts using its facilities. In the beginning, the act confined the company to improving the inland navigation of the County of Orleans and Bayou Plaquemine and prohibited its activities on any other

⁷Ibid., March 1, 5, April 12, 1805.

⁸An Act to Incorporate a Marine Insurance Company in the City of New Orleans, March 26, 1805, Acts Passed at the First Session of the Legislative Council of the Territory of Orleans . . . (New Orleans: James M. Bradford, 1805), 100-16.

⁹Louisiana Gazette, March 25, 1806.

navigable stream except with the permission of the governor.¹⁰

The Orleans Navigation Company started its operations early the next year on the project of improving the pass from Bayou St. John to Lake Pontchartrain by advertising for plans of the work and receiving bids on the construction.¹¹ Later the same year, the company also let contracts for finishing the Canal Carondelet which had been started by the Spanish with the purpose of providing an all-water route from Lake Pontchartrain to New Orleans.¹² By October, 1807, the company finished its work on opening Bayou St. John and advertised the toll rate for its use.¹³ At the opening of the territorial legislature of 1808, Governor Claiborne praised the Orleans Navigation Company for the work completed and announced that its next project was, as noted above, to be clearing the Canal Carondelet of all obstructions. This was to be followed by the digging of a new canal to connect the Canal Carondelet with the Mississippi River near Fort St. Louis.¹⁴

¹⁰An Act for Improving the Inland Navigation of the Territory of Orleans, July 3, 1805, Acts Passed at the Second Session of the Legislative Council of the Territory of Orleans . . . (New Orleans: James M. Bradford, 1805), 2-28.

¹¹Louisiana Gazette, January 3, February 11, 1806.

¹²Ibid., August 15, 1806.

¹³Ibid., October 30, 1807.

¹⁴Ibid., January 19, 1808.

Shortly after the Governor's encouraging speech, however, the Orleans Navigation Company began to experience financial trouble. Only 1,587 of the original 2,000 shares of stock had been sold by May, 1808, and the number outstanding had been reduced by virtue of deaths, failures, removals, and other causes to 1,458. In addition to the unsold shares of stock, the company was experiencing difficulties finishing the work on Bayou St. John and the Canal Carondelet. James Pitot, president of the company, attributed the financial distress to the fact that money invested brought no immediate return, and to the ignorance and hesitancy of the people to invest in novel enterprises. The company appealed to the United States government, which had previously granted them a right to cross the city commons with a canal and had promised to defray the expenses of constructing locks on the Mississippi River near Fort St. Louis, to lend them \$50,000 or to subscribe for the remaining shares of stock and to donate land on Bayou St. John for a construction depot.¹⁵ President Jefferson declared that it was not the policy of the government to buy shares in private companies nor could it lend money except for an enterprise that contributed directly to the objects of

¹⁵Orleans Navigation Company to the President, May, 1808, Carter (ed.), Orleans Territory, 785-89; James Pitot to the President, May, 1808, The Papers of Thomas Jefferson, 1651-1826 (Division of Manuscripts, Library of Congress), CLXXVIII; United States Statutes at Large, II, 440-42.

government. According to the President while the clearing and reopening of Bayou St. John and the Canal Carondelet to the city did not enhance any governmental objective, constructing a new canal from New Orleans to the river would contribute to the defense of the country since it would provide a short water connection from the Mississippi River to Lake Pontchartrain which could be used by American gunboats. Since for this purpose the canal would have to accommodate vessels drawing five feet of water, the President raised the possibility of the government's lending the corporation a sum of money provided it was used exclusively for the new river connection. At Jefferson's request, Claiborne polled the president and directors of the company on the proposal and they agreed to it.¹⁶ By the beginning of 1809, the company finally completed the work on Bayou St. John and the Canal Carondelet.¹⁷ In February, then Congress passed a bill appropriating \$25,000 for the extension and completion of the connection to the Mississippi.¹⁸

Meanwhile, however, the Orleans Navigation Company had

¹⁶Jefferson to Claiborne, July 9, 1808, Papers of Thomas Jefferson, CLXXVII; Jefferson to Claiborne, *ibid.*, CLXXIX; Claiborne to Jefferson, September 1, 1808, Dunbar Rowland (ed.), Official Letterbooks of W. C. C. Claiborne, 1801-1816 (6 vols.; Jackson: State Department of Archives and History, 1917), IV, 202-203.

¹⁷Courier de la Louisiane (New Orleans), January 30, 1809; Louisiana Gazette, January 31, 1809.

¹⁸United States Statutes at Large, II, 516-17; Louisiana Gazette, March 17, 1809.

come under attack by the residents of the territory outside of Orleans County. Those living along Bayou Plaquemine complained that the company had neglected completely the improvement of that stream which was so necessary to transport the produce of the countryside to New Orleans. In February, 1807, two representatives of Opelousas requested the company to consent to a repeal of that part of its charter authorizing it to improve Bayou Plaquemine. The board of directors refused on the ground that such action would endanger their entire charter; however, they agreed to farm out their privileges to work on the bayou. In February, 1808, Dominique Bouligny of Orleans County and Francis Robin and Joachin Orthega of Opelousas County introduced a bill into the legislature to repeal the section of the act creating the Orleans Navigation Company which gave it a monopoly right to improve Bayou Plaquemine. An animated debate ensued in the House of Representatives. The proponents of the bill argued that the Spanish government had granted to the people of Opelousas and Atakapas the right of improving their stream, and that they had spent much time and energy in doing so, while the company had done nothing. They further declared that the legislature had a right to destroy what it created, and that the act was unconstitutional since it gave the company land bordering the bayou which was forbidden in the organic act of the territory. The opponents of the bill, on the other hand, contended that to alter the original law would violate the sanctity of contracts. The

legislature passed the bill, but the Governor evidently vetoed it.¹⁹

Upon failure of the measure, Robin and Orthega made a second appeal to the company to consent to a repeal of part of its charter; once again it refused, but offered to meet with representatives of Opelousas and Atakapas to discuss the question. In February, 1809, the board of directors of the Orleans Navigation Company met with several members of the legislature, but failed to reach an accord. Governor Claiborne then unsuccessfully tried to persuade the company to give up the controversial part of its charter. The legislature passed another bill altering the company's rights, but the Governor vetoed it on the ground that the legislature had no right to void a contract.²⁰ Finally on March 18, 1809, the Governor approved a bill revoking the company's right to improve Bayou Plaquemine.²¹ The Orleans Navigation Company continued to operate until the end of the territorial period, but there is no mention of its having completed the extension from the Canal Carondelet to the Mississippi River. Thus its main contribution to the

¹⁹Courier de la Louisiane, March 24, 1809. The bill was not included in the acts of the Second Legislature.

²⁰Ibid.

²¹An Act Supplementary to an act entitled, "An Act for improving the Inland Navigation of the Territory of Orleans," March 18, 1809, Acts Passed at the Second Session of the Second Legislature of the Territory of Orleans . . . (New Orleans: Louisiana Courier, 1809), 56.

commerce of the territory was the clearing and deepening of Bayou St. John and the Canal Carondelet, so as to allow lake vessels to proceed directly to New Orleans to unload.

The legislature provided encouragement for commercial development by authorizing the creation of two sorely needed financial institutions. At the time of the cession, there was not one bank operating in New Orleans, and there was a scarcity of money, especially after the halting of shipments of Spanish silver from Mexico. As stated previously, three months after his arrival Governor Claiborne created the controversial Louisiana Bank which continued to operate throughout the territorial period. At the same time, in March, 1804, Congress approved a law authorizing the establishment of a branch of the United States Bank in New Orleans.²² The two banks operated as competitors until 1810, when the charter of the United States bank expired, and it went out of business, leaving only one bank chartered. In 1811, however, the Orleans legislature chartered two banks. The first was a Planter's bank in New Orleans, which was incorporated for fifteen years. It had been in operation previously without a charter under the name of the Louisiana Planters Bank.²³ Soon after the legislature also

²²United States Statutes at Large, II, 274.

²³An Act Incorporating the Planter's Bank in the city of New Orleans, April 15, 1811, Acts Passed at the Second Session of the Third Legislature of the Territory of Orleans . . . (New Orleans: Thierry, 1811), 86-100.

incorporated the Bank of Orleans with a capital stock of \$500,000 under a fifteen-year charter.²⁴

While the territorial legislature was engaged in fostering commerce, so was the city of New Orleans. Regulation of the city's port facilities was a joint operation of the governor and the municipal officials. The governor issued general ordinances pertaining to shipping in the port and appointed the harbor officials, while the city council cared for the facilities of the port. In December, 1803, for example, Governor Claiborne issued his first decree concerning the arrangement of shipping in the port of New Orleans. It regulated the landing and mooring of ships in the harbor and placed taxes on the vessels.²⁵ The following March, he proclaimed regulations concerning the activities of pilots on the river.²⁶ These two ordinances remained in effect throughout the territorial period and were reinforced by an act of the legislature in March, 1805, bestowing upon the chief executive the additional duty of naming the harbor-

²⁴An Act to Incorporate the Bank of Orleans, April 30, 1811, ibid., 164-78.

²⁵"Ordinance for the better arrangement of the Shipping and the Security thereof in the Port of New Orleans," December, 1803, Rowland (ed.), Claiborne's Letterbooks, I, 320-21.

²⁶"Pilot Regulations," March 15, 1804, ibid., 35-37.

master, master and wardens, and master pilots of the port.²⁷ Among the port improvements made by the municipality was the building of a new expanded brick market house and the extending of docking facilities.²⁸

In addition to local measures, the federal government promoted commerce by constructing lighthouses in the territory. Congress appropriated money for the construction of a lighthouse at the mouth of the Mississippi River. Secretary of the Treasury Gallatin requested Hore B. Trist, collector at New Orleans, to secure all the information that he could on a suitable location and construction of the lighthouse.²⁹ Trist reported that a stone lighthouse was not practicable on the soft marshy ground of lower Louisiana. He, therefore, recommended the construction of a wooden one, seventy to one hundred feet in height, on an island to the west of the main pass of the Mississippi River at the Balize. In January, 1805, a local engineer, Laffon, drew up plans for

²⁷An Act Relative to the Harbour-Master and Wardens, and Pilots of the port of Orleans, March 31, 1805, Acts Passed at the First Session of the Legislative Council of the Territory of Orleans, 122-44.

²⁸Louisiana Gazette, September 20, 1810; Courier de la Louisiane, March 29, 1811.

²⁹Albert Gallatin to H. B. Trist, April 9, 1804, Correspondence of the Secretary of the Treasury with Collectors of Customs, 1789-1833 (General Records of the Department of the Treasury. File Microcopies of Records in the National Archives: No. M-178. Microfilm in possession of author), XVI, 10-11. Hereinafter cited as Correspondence.

the proposed structure.³⁰ Later Congress also authorized the erection of a lighthouse at the mouth of Bayou St. John, and by 1811 a twenty-eight foot structure had been completed.³¹

While the federal, territorial, and city governments attempted to create an atmosphere conducive to commercial activity, there remained certain hindrances which could not be overcome. One of the most serious was the storms which periodically struck southern Louisiana. The most devastating of the territorial period hit New Orleans on September 16, 1806. It blew the ships in the harbor ashore and tossed others against each other. Approximately thirty-four vessels of various types were either sunk, run aground, or heavily damaged. Only those which were moored with an anchor and those which maneuvered to the middle of the stream escaped serious damage. The losses to shippers were huge.³² Another hazard to New Orleans commercial interests was fire, especially since the city lacked any organized fire protection. In July, 1806, a fire started in the stores of one Garrod consuming two large warehouses of tobacco and flour, a cotton gin, and baled cotton worth \$30,000 or \$40,000.

³⁰William Brown to Albert Gallatin, January 14, 1805, ibid., 253.

³¹Thomas H. Williams to Gallatin, April 24, 1811, ibid., 309; Louisiana Gazette, August 2, 1811.

³²Louisiana Gazette, September 19, 1806.

The blaze was finally extinguished by a group of volunteers. Governor Claiborne suggested that the mayor of New Orleans take steps to issue regulations to organize fire fighting units to deal with such disasters.³³ So great was the property loss from fire by April, 1808, that the Phoenix Fire Company of London, which insured much of the property in the city, issued a new schedule of rates on buildings in the city, according to the combustibility of the construction materials.³⁴ Two years later a great fire broke out which because of the high winds and wooden buildings, threatened the whole city for a time.³⁵ To lessen the danger and loss of property from fire in 1811, the municipal council decreed that every building constructed in the city proper had to be covered with tile, slate, or some other non-combustible material, and its gable ends had to be built of masonry.³⁶

The greatest impediment to commerce during the territorial period was, without a doubt, the Napoleonic Wars and the interruption of trade which resulted. When President Jefferson put into effect his famous policy of "peaceful

³³Ibid., July 11, 1806; Claiborne to John Watkins, July 29, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 371-72.

³⁴Louisiana Gazette, April 19, 1808.

³⁵Louisiana Gazette and New Orleans Daily Advertiser, July 2, 1810.

³⁶Moniteur de la Louisiane (New Orleans), February 12, 1811.

coercion" to secure respect for American neutral rights by the Embargo of December, 1807, Orleans trade suffered. At first, Orleanians, like most Americans, were glad to see France and Great Britain punished for their violation of American rights. The inhabitants of the territory were particularly aroused by the Chesapeake Affair in the summer of 1807. The people of New Orleans met in the Exchange Coffee House and drew up a message to President Jefferson deploring the vicious attack.³⁷ Upon his retirement about one year later, the legislature sent the President an address reaffirming the people's determination to suffer any sacrifice or privation to uphold "a dignified and impartial neutrality towards the belligerent powers of Europe" and "to cooperate with their fellow citizens of the United States, in support of their rights and independence against those who have the temerity of injustice to assail them."³⁸ These noble sentiments were, however, not to endure long. The wisdom of the American policy became a partisan issue, and as Orleans merchants and shippers began to feel the devastating effects of the embargo on their trade, they started to grumble and question the government's policy.

By August, 1808, opposition to the embargo in New

³⁷Louisiana Gazette, August 7, 1807; Claiborne to Madison, August 24, 1807, Rowland (ed.), Claiborne's Letterbooks, IV, 134-35.

³⁸Louisiana Gazette, April 1, 1808.

Orleans was voiced in the newspapers. An editorial in the Louisiana Gazette blasted the embargo as a measure to aid Napoleon in destroying the dominions of Ferdinand VII of Spain in the Western Hemisphere. It was designed to starve the European colonists, especially those of the Spanish West Indies, rather than to protect American ships from British seizure. The writer advised Americans to "Discontinue the embargo; and cease to be a degenerate auxiliary of a depraved tyrant . . ." and warned them not to trust Napoleon who would surely turn against the United States just as he did against his allies in Europe.³⁹ About a month later, a letter from a resident of New Orleans appeared in the Gazette. The writer declared that the Embargo was not a temporary measure, rather a permanent national policy to destroy American commerce with foreign states and exclude foreign manufactures and produce from American soil. Such a policy, he exclaimed, would annihilate the prosperity of the Territory of Orleans which produced agricultural surpluses not needed in the domestic market, as well as cut the people off from the flow of European imports to which they were accustomed. Admitting that the Embargo would not, at least temporarily, be felt in the Middle States, the author stated that "in the eastern states, whose support is in a great measure derived from their maritime commerce, and in Louisiana, whose sole wealth

³⁹Ibid., August 30, 1808.

is agricultural, a perpetual embargo would be a sentence of perpetual poverty." Its effect, he added, was to destroy American commerce, while aiding that of hostile countries and doing only a minimum of damage to their manufacturing. On the other hand, he pointed out, the embargo worked against Spain, the last bastion of freedom and independence in Europe.⁴⁰

The Orleans Gazette apparently supported the Embargo on the ground that the United States had been insulted by the belligerent nations and her rights had been violated, and therefore, economic retaliation was necessary to uphold American honor and dignity.⁴¹

To no small extent, the domestic reaction to the violation of American neutral rights and economic coercion was partisan. The Louisiana Gazette was a Federalist newspaper while the Orleans Gazette was Republican in sentiment. Governor Claiborne, a staunch Republican and friend of President Jefferson, clearly recognized the partisan nature of the reaction. He assured Secretary of War Dearborn that the majority of the people of Orleans bore the Embargo without complaint, since they realized it saved them from still greater evils.⁴² However, he felt that the opponents of the

⁴⁰Ibid., September 23, 1808.

⁴¹Ibid., November 1, 1808.

⁴²Claiborne to Dearborn, March 3, 1809, Rowland (ed.), Claiborne's Letterbooks, IV, 323-24.

Embargo were Federalists who were willing and eager to oppose, for party purposes, any Republican measure. He did feel that the anti-Embargo writings were designed to whip up sentiment in favor of some violators of the law against whom the district attorney had brought action. He also indicated that the "Burrites" were included in the objecting group.⁴³ Notwithstanding its partisan political nature, opposition to the Embargo was also based on its detrimental effect on the economy of the territory and on the Spanish struggle against Napoleon. When the Embargo was replaced by the Non-intercourse Act, in March, 1809, the first of these objections was partially removed and the latter entirely, and vocal opposition to the government's policy ended in the territory. Violations of trade restrictions, however, continued.

As noted previously, smuggling was almost an everyday occurrence in Orleans. From the inauguration of American control, United States officials recognized the problem and attempted unsuccessfully to stamp it out. It will be recalled that Daniel Clark in 1803 charged that one-half of the Spanish customs was not collected because of smuggling and bribery, and that Hore B. Trist, the American collector, reported the next year that it was futile for the American government to consider seriously the elimination of smuggling in a short

⁴³Claiborne to Jefferson, September 1, 1808, ibid., 207-208.

period or without a large expense.⁴⁴ Despite the efforts of American officials, Trist's prediction proved correct. The Napoleonic Wars gave a stimulus to smugglers in Orleans, especially after the inauguration of the Embargo. As Louisianians found themselves cut off from legal European imports, they turned to illegal ones, and smuggling became a bigger business than ever.

Intimately tied in with the smugglers, and often indistinguishable from them, were the privateers who infested Louisiana waters throughout the territorial period indiscriminately preying upon all commerce in the Gulf of Mexico. In March, 1804, Thomas Bailey, a merchant of Charleston, South Carolina, made the first formal complaint against a privateer before an American notary public in New Orleans. Bailey swore that the American brig, Columbia, on which he was traveling was captured by a French privateer, La Coquette, and taken to Santiago, Cuba, where it joined some

⁴⁴"Queries respecting Louisiana, with Answers," 1803, enclosed in Clark to the Secretary of State, September 8, 1803, Carter (ed.), Orleans Territory, 43; Trist to Gallatin, April 14, 1804, Correspondence, XVI, 235-36. Martin, History of Louisiana and Henry E. Chambers, A History of Louisiana (3 vols.; New York: The American Historical Society, 1925), take no notice of smuggling or privateering in Louisiana during this period. Charles Gayarré, History of Louisiana (4 vols., 4th ed.; New Orleans: Pelican Publishing Company, 1965), IV, 229 makes the following statement: "It is true that, for some considerable time before official notice was taken of the fact, smuggling had been carried on to some extent in relation to Africans, and as to every other sort of merchandize, to an immense amount, not only through Barataria and Lafourche, but also through Bayou Teche in Attakapas."

fifty other captured American vessels. The deponent declared that seventeen French privateers were cruising out of Santiago and sixteen out of Baracoa.⁴⁵ Governor Claiborne immediately asked the Marquis de Casa Calvo for an explanation of Spain's practice of harboring French privateers. The Marquis communicated with the Captain General of Cuba, who declared that, due to the considerable immigration of Frenchmen to the island and the unsettled state of its ports and harbors, privateers rendezvoused secretly, without the permission or knowledge of the governor and that whenever possible action was taken against them.⁴⁶ Shortly thereafter, another French privateer, La Soeur Chérie, entered the Mississippi River in distress and was detained at Fort Plaquemine. After being investigated, Governor Claiborne allowed the ship to proceed to New Orleans for repairs and provisions but not to augment its armament or crew.⁴⁷

⁴⁵Protest against the French Privateer La Coquette, March 24, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 66-69.

⁴⁶Claiborne to the Marquis de Casa Calvo, March 28, 1804, ibid., 69-70; Marquis de Casa Calvo to Claiborne, August 2, 1804, Territorial Papers: Orleans Series, 1794-1813 (General Records of the Department of State. File Microcopies of Records in the National Archives: No. T-260. Microfilm in the New Orleans Public Library, New Orleans, Louisiana), V.

⁴⁷Claiborne to Laussat, April 14, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 97-98; Claiborne to the Secretary of State, April 25, 1804, Carter (ed.), Orleans Territory, 233-34; Claiborne to Captain Davis, April 25, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 114.

With the resumption of the war in Europe, by late 1804 Claiborne and federal officials were confronted by even more serious problems of privateering. The basic United States law concerning privateers was an act of June 5, 1794. It declared that no person could increase or augment the armament of any ship of war, cruiser, or armed vessel serving any foreign prince or nation or belonging to the citizens of such a state when at war with another state with whom the United States was at peace. Nor could any pilot guide such a ship except in taking it out of United States waters. Appropriate district courts were to hear cases involving infractions of this law.⁴⁸ Some privateers, sailing under false papers, attempted to sell their prizes in New Orleans, while others put in there to make repairs. In most cases the privateers also planned to augment their crews and armaments while in port. To protect American vessels operating off the coast of Louisiana against privateers and to stop smuggling activities, the federal government sent the revenue cutter, Louisiana, to operate off the Balize.⁴⁹ It arrived in New Orleans in December, 1804, when Collector Brown had it equipped with ten guns and assigned a crew of thirty men. Less than a month after being commissioned, the cutter rescued the schooner,

⁴⁸United States Statutes at Large, I, 381-84.

⁴⁹Louisiana Gazette, December 14, 1804; William Brown to Gallatin, December 24, 1804, Correspondence, XVI, 252.

Felicity, from a privateer in the act of unloading the ship's cargo.⁵⁰ The Louisiana continued patrolling local waters for the next several years.

Upon learning of the passage of the Embargo, Collector Brown declared confidently that the new law would be enforced in the territory with little difficulty. Every vessel clearing New Orleans had to pass either Fort St. Philip on the Mississippi or the fort at the mouth of Bayou St. John. If it should slip by these, the Collector explained, there were gunboats at the mouth of Bayou St. John and the bar of the Mississippi River which would stop it if its papers were not in order. Brown's only doubts concerning making the Embargo effective were with regard to disputed West Florida.⁵¹ Enforcement of the Embargo in Orleans, with its numerous waterways, however, did not prove to be as simple as the Collector expected, and he had to ask the navy for help. Secretary of the Navy Robert Smith ordered Commodore David Porter to assign three gunboats to this service. One was to be stationed near Fort Adams, Mississippi, one near Bayou Manchac, and the third near Baton Rouge or any other place between Fort Adams and Bayou Manchac. The commanders of the first two boats were instructed to stop all ships, make them report to the

⁵⁰Brown to Gallatin, March 20, 1805, Correspondence, XVI, 256; Brown to Gallatin, April 27, 1805, ibid., 257.

⁵¹Brown to Gallatin, February 6, 1808, ibid., 282.

inspectors on shore, and to seize those suspected of violating the Embargo. The commander of the vessel at Baton Rouge was ordered to prevent any American boat from landing on the Spanish bank of the Mississippi and to be alert for landings on the American side of the river with the intention of later transferring the cargoes across the stream.⁵² Commodore Porter also stationed gunboats along the coast between Dauphin and Timbalier islands to stop illicit traders from using Lake Borgne, the mouth of the Mississippi, and Lake Barataria.⁵³

Despite the assistance of the navy after April, 1808, in patrolling the waters of Louisiana, illegal commerce continued to flourish. The gunboats seized seven prizes between September and December, 1808, and brought them into New Orleans for adjudication.⁵⁴ Collector Brown complained that the naval officers did not give him any account of their seizures, nor did they consider it to be his duty to oversee

⁵²Robert Smith to Commanding Naval Officer at New Orleans, April 28, 1808, Letters Sent by the Secretary of Navy to Officers, 1798-1868 (Naval Records Collection of the Office of Naval Records and Library. File Microcopies of Records in the National Archives: No. M-149), VIII, 61-62.

⁵³David Porter to Smith, June 26, 1808, Letters Received by the Secretary of the Navy from Commanders, 1804-1886 (Naval Records Collection of the Office of Naval Records and Library. File Microcopies of Records in the National Archives: No. M-147), II. Hereinafter cited as L.R., S.N.

⁵⁴Porter to Smith, September 19, 1808, ibid.; Porter to Smith, November 24, 1808, ibid.; Porter to Smith, December 17, 1808, ibid.

the storage of the goods or the distribution of any money resulting from their confiscation.⁵⁵ While the navy and collector were squabbling, another obstacle to enforcing the embargo acts arose. For over four months in 1808 there was no United States district attorney in Orleans to prosecute violators. James Brown had been nominated for the position in December, 1805, and served until March 31, 1808, when he resigned.⁵⁶ Philip Grymes was appointed his successor in February, 1808, but did not reach New Orleans until August 18.⁵⁷ Thus during the summer months of 1808 the post was vacant. Upon assuming his duties, Grymes reported to the President that violations of the embargo acts in Orleans had been most flagrant and numerous, but he promised to take immediate action against all offenders.⁵⁸

Even with the navy, customs collector, and district attorney presumably working together to prevent them, infractions of the embargo laws continued unabated. By January, 1809, the situation had become so bad that the Secretary of War authorized the use of regular troops in New

⁵⁵William Brown to Gallatin, August 8, 1808, Correspondence, XVI, 270.

⁵⁶James Brown to the Secretary of State, August 24, 1805, Carter (ed.), Orleans Territory, 494; Brown to the Secretary of State, December 23, 1807, ibid., 770-71.

⁵⁷Philip Grymes to President Madison, January 15, 1808, ibid., 772; Grymes to the President, August 27, 1808, ibid., 801.

⁵⁸Grymes to the President, August 27, 1808, ibid., 801.

Orleans to aid in preventing evasions of the revenue laws, and the President requested the governors of the seaboard states and territories to use their militia units to cause the laws to be enforced.⁵⁹ Governor Claiborne ordered Major Peter Foucher of the 4th Regiment of militia to assemble a sufficient force to aid in the enforcement of the laws upon application from the collector.⁶⁰ Unfortunately, Collector Brown was not very interested in enforcing the laws and probably not beyond ignoring evasions. In November, 1809, he suddenly left New Orleans with some \$150,000 of the public's money, thus perpetrating the largest theft in the history of the territory. Thereafter he became known as the "Doubloon Collector" and was succeeded in office, in January, 1810, by Thomas H. Williams.⁶¹

While the collector neglected his duties, Commodore Porter continued the pressure on smugglers and privateers. He particularly noted the extensive illegal trade which was carried on through Bayou Sara and Baton Rouge, where products

⁵⁹Henry Dearborn to Mr. Nicoll, January 18, 1809, Letters Sent by the Secretary of War, Relating to Military Affairs, 1800-1889 (Records of the Office of Secretary of War. File Microcopies of Records in the National Archives: No. M-6. Microfilm in possession of author), IV, 15.

⁶⁰Claiborne to the Secretary of War, March 3, 1809, Carter (ed.), Orleans Territory, 829-30; Claiborne to Dearborn, March 3, 1809, Rowland (ed.), Claiborne's Letterbooks, IV, 323-24.

⁶¹Claiborne to the President, November 19, 1809, Carter (ed.), Orleans Territory, 858; Louisiana Gazette, November 24, 1809; Louisiana Gazette and New Orleans Daily Advertiser, September 17, 1810.

of the western country were landed, made Spanish property, and passed through Bayou Manchac into the hands of British agents at Mobile, Pensacola, or Havana. To encourage this trade, the British were offering twenty and one-half cents a pound for cotton which sold in American territory for twelve and one-half to thirteen cents. Porter suggested that Baton Rouge be seized by the Americans before the Spanish turned it over to the British.⁶² He also ordered his gunboat patrols to be expanded from Lake Barataria westward to the Sabine River to intercept illegal traders using the numerous bayous of southwest Louisiana.⁶³

By 1810 the situation still had not improved. Orleans merchants continued to evade the non-intercourse act and slave trade acts at will, and smugglers and privateers continued to bring their illegal booty into the territory. Privateers, in particular, became active in Louisiana waters. In May, 1810, Congress passed a law prohibiting any French or British armed vessel from entering any American harbor or waters unless forced to do so by distress, dangerous seas, or when carrying official governmental dispatches or mail. Even in such cases, the commanding officer of the ship was to report to the collector upon arrival, who would assign the vessel a position in port and regulate its activities.

⁶²Porter to Smith, February 19, 1809, L.R., S.N., III.

⁶³Porter to Lieutenant Commander Louis Alexis, July 8, 1809, ibid.

The law forbade any person aiding such a ship in making repairs or taking on provisions, and no pilot was to assist in navigating it except to take it out of United States waters.⁶⁴ Privateers in Louisiana waters evaded the law by feigning distress.

The newspapers, however, began to list and describe the privateers, most of which were French, operating in the Gulf of Mexico. They included the Duc de Montebello, Intrépide, le Petit Chance, l'Epine, Le Guillaume, La Franchise, and many others. The newspapers denounced the conduct of these vessels as a "disgrace to human nature," declaring that, having no port into which to bring them, they sank their prizes and probably destroyed the passengers with them. The papers speculated that, since there were many French sympathizers in these two ports, New Orleans and Savannah would become the two major rendezvous points in the United States for the French privateers.⁶⁵ Of these vessels, three in particular--the Duc de Montebello, Intrépide, and l'Epine--became notorious for violating American laws and give good examples of how privateers operated.⁶⁶

⁶⁴United States Statutes at Large, II, 605-606.

⁶⁵Louisiana Gazette and New Orleans Daily Advertiser, April 12, 1810; Weekly Chronicle (Natchez), April 23, 1810.

⁶⁶These three vessels were a part of the fleet of Jean Lafitte and his Baratarians pirates. Jane Lucas de Grummond, The Baratarians and the Battle of New Orleans (Baton Rouge: Louisiana State University Press, 1961), 13.

The Duc de Montebello was a French corsair which was seized by a United States naval gunboat on March 26, 1810. After having been built in Baltimore, she had sailed to Savannah, Georgia, where she had been armed and equipped and acquired her new name. Leaving Savannah, she began to plunder the vessels of all nations, including the United States and Spain. The Duc de Montebello carried at the time of her seizure privateer commissions for the use of other vessels in the Gulf of Mexico. Ange-Michel Brouard, her owner, immediately petitioned Judge Joshua Lewis of the Superior Court denouncing the seizure as illegal and asking for redress. According to Brouard, the ship had been in distress and had come into New Orleans for relief. The owner had immediately filed the necessary papers and had received permission from Governor Claiborne and Captain Michael Carroll, the naval officer temporarily in command at New Orleans in the absence of Commodore Porter, to make the necessary repairs, take on provisions, and then leave the port. Upon departing, the ship sailed down the river to the Balize, where she had been boarded by sixty or seventy armed men under the command of Captain Read of the United States navy who took possession of the vessel and her cargo and committed outrages against the crew. The owner had protested to Commodore Porter, who had ignored his complaints and had announced his determination to send the ship to Washington. Brouard prayed the court to bring Porter before it to explain his conduct and, in the meantime, to place the

Duc de Montebello in the custody of the sheriff.⁶⁷ Deforgues, the French consul in New Orleans, also immediately protested to Claiborne the illegal seizure of the ship. The Governor replied that Commodore Porter was independent of his control, but assured the consul that the United States government would disapprove of his actions if they were illegal as stated in the petition.⁶⁸ The district attorney instituted a suit against the Duc de Montebello by a libel and it was condemned.⁶⁹

The Intrépide was seized by naval authorities the same day as the Duc de Montebello. She had been built in New Orleans and about two months previous to her capture had sailed for St. Bartholomew, where she had been sold to one of the passengers, Joseph Sauvinet. She had then received a French privateer's commission and had begun attacking ships until she put into New Orleans under pretense of distress. The district attorney prosecuted the vessel, but the judge of the district court released her upon her owner's giving

⁶⁷Petition to the Honorable Joshua Lewis, March 30, 1810, Rowland (ed.), Claiborne's Letterbooks, V, 26-28; Thomas Williams to Gallatin, April 7, 1810, Correspondence, XVI, 297; Robertson to the Secretary of State, April 8, 1810, Carter (ed.), Orleans Territory, 880-81; Louisiana Gazette and New Orleans Daily Advertiser, April 4, 12, 1810; Weekly Chronicle, April 23, 1810.

⁶⁸Claiborne to the French Consul, March 30, 1810, Rowland (ed.), Claiborne's Letterbooks, V, 28-29; Claiborne to Smith, March 30, 1810, ibid., 24-26.

⁶⁹Stanley Faye, "Privateers of Guadeloupe and Their Establishment in Barataria," The Louisiana Historical Quarterly, XXIII (April, 1940), 437.

bond of \$1,500. When the collector of customs refused to allow the Intrépide to leave port, she took "French leave" on the night of May 27, 1810 and again resumed her previous activities.⁷⁰ L'Epine, a former pilot boat called the Thorn from New York, was also seized by American authorities, but was released to its owners upon the advice of the collector.⁷¹ She too immediately returned to privateering in United States waters and by July, 1810, was once again in the hands of American customs officials.⁷²

By 1810 New Orleans had become the regular haven in the Western Hemisphere for French privateers, because France had lost all of her ports in the West Indies. The privateers had a regular plan of operation--to attack ships in the Gulf of Mexico, take their cargoes, and then feigning distress, put into New Orleans, where the booty could be stored or sold. In New Orleans privateers and smugglers found many friends and sympathizers, some of them public officials, who were willing to assist them in their illegal acts. Commodore Porter complained bitterly of the obstacles placed in the way of his fulfilling his duties by public officials. Finally, in May, 1810, he informed the Secretary

⁷⁰Williams to Gallatin, April 7, 1810, Correspondence, XVI, 297; Louisiana Gazette and New Orleans Daily Advertiser, April 4, 12, June 4, 1810; Weekly Chronicle, April 23, 1810.

⁷¹Louisiana Gazette and New Orleans Daily Advertiser, April 17, May 10, 1810.

⁷²Ibid., July 3, 26, 1810.

of the Navy that the "unwarrantable" conduct of Governor Claiborne and the district attorney, Philip Grymes, determined him to give up his exertions to prevent privateers from fitting out in New Orleans.⁷³ Another factor which probably influenced Porter's announced decision was his disappointment in his small reward for the navy's confiscations of privateers. He received a total of \$25,000, a much smaller sum than he had expected, from the condemnation of the Duc de Montebello.⁷⁴ Furthermore, except for the newspapers, there was little public support for the campaign against privateering and smuggling.⁷⁵

The cases involving smuggling and privateering were heard in the United States District Court of Orleans. Many of those tried in 1809 resulted in acquittals, but in 1810 there were several condemnations.⁷⁶ Eleven cases were appealed from the district court to the Supreme Court of the United States. One of these involved a law prohibiting intercourse with St. Domingo, one was concerned with the law forbidding the importation of foreign slaves into Louisiana, and nine with the embargo laws. Eight of these embargo cases

⁷³Porter to Hamilton, May 7, 1810, L.R., S.N., IV, 52.

⁷⁴Faye, "Privateers of Guadeloupe," L.H.Q., XXIII, 437.

⁷⁵Louisiana Gazette and New Orleans Daily Advertiser, April 7, July 12, 1810.

⁷⁶Excerpts from the Minutes of the United States District Court of Louisiana, 1808-1876 (Survey of Federal Archives in Louisiana, 1941).

dealt with the question of whether a ship impelled by bad weather or unavoidable accident to land its cargo in a foreign port after having entered into bond to land it in the United States was subject to seizure and penalty. The Supreme Court decided that dangerous seas, bad weather, or unavoidable accident furnished suitable grounds for the landing of goods outside the United States. In the other three cases which were appealed the Attorney General dropped the charges.⁷⁷ Thus all eleven cases taken to highest court from Orleans were either reversed or dropped, thus encouraging the violators of the laws.

The problem of smuggling and privateering continued unabated throughout the last year and a half of the territory's history. At the end of 1811 a newspaper account listed eight ships captured by pirates and smugglers and indicated that the number was much larger. It denounced the revenue officers for allowing the plundered cargoes to be introduced openly into the city and sold. It denounced, in particular, the brazen piracy carried on from Barataria.⁷⁸ A spokesman for the pirates and smugglers, called "The Agent of the Freebooters," replied that "a few honest fellows" were punishing the English and Spanish and preventing the total stagnation of trade under the non-intercourse act.

⁷⁷Louisiana Gazette and New Orleans Daily Advertiser, May 12, 1810 quoted from the National Intelligencer.

⁷⁸Ibid., December 18, 1811.

"Without us," he declared, "there would not be a bale of goods at market." Furthermore, "the open manner in which our business is done [shows] that the government of the United States had no objection either to the setting out our cruizers in its ports, or to the introduction of our prizes and the sale of their cargoes, without troubling ourselves about the payment of duties; which I assure you we would find extremely inconvenient, when we sell in these hard times." The writer then announced that the "company of freebooters" had recommenced their business with depots at Barataria, the mouths of Bayous LaFourche and Teche, and at Chandeleur and Breton islands for selling ships and cargoes wholesale, and with retail outlets on Conte and Toulouse streets in New Orleans.⁷⁹ This brazen statement of the flaunting of American laws aroused the federal officials in New Orleans. In January, 1812, Collector Williams called upon General Wade Hampton of the United States army for aid in breaking up the illegal trading. The General sent a small detachment under the command of Captain George Gilson up Bayou LaFourche to intercept the smugglers. It encountered a smuggling party and confiscated \$8,000 worth of goods,⁸⁰ but this was small success for the time and energy involved, and was not much of a deterrent to continued smuggling and

⁷⁹Ibid., December 20, 1811.

⁸⁰Williams to Gallatin, March 15, 1812, Correspondence, XVI, 312-13.

privateering activities.

Although the acquisition of the Territory of Orleans was a great boom to the commercial development of the western half of the United States, this development was hampered and somewhat prevented during the territorial period by the restrictions imposed on international trade as a consequence of the war in Europe and the resulting interference with American maritime rights.

A HISTORY OF THE TERRITORY OF ORLEANS, 1803-1812

PART II

A Dissertation

Submitted to the Graduate Faculty of the
Louisiana State University and
Agricultural and Mechanical College
in partial fulfillment of the
requirements for the degree of
Doctor of Philosophy

in

The Department of History

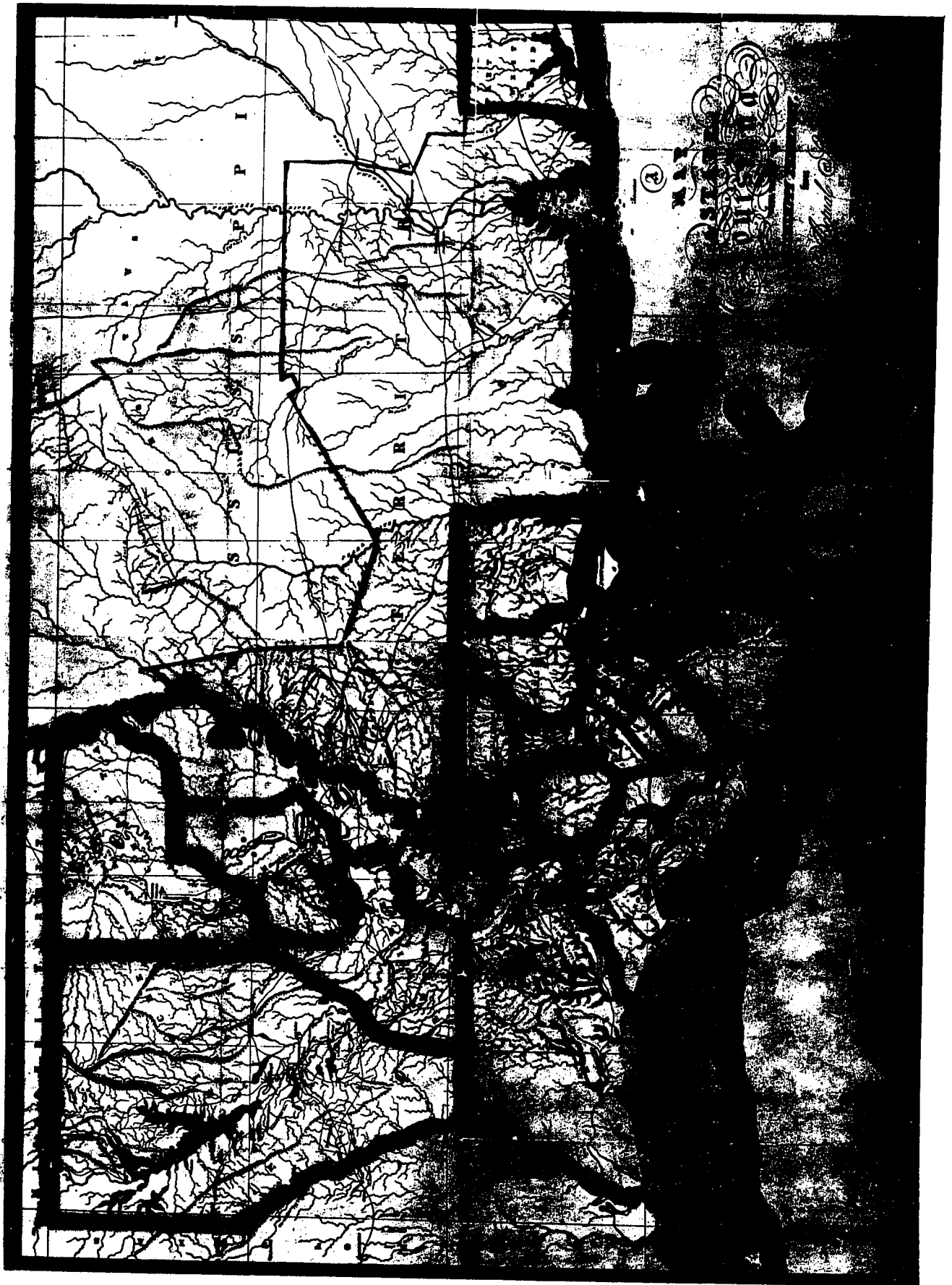
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CHAPTER IX

AGRICULTURE AND SLAVERY IN ORLEANS

The people of the Territory of Orleans, like those in the entire western country in the early nineteenth century, were dependent on the land for their livelihood. Arable lands were scattered from the Mississippi River area on the east to Natchitoches on the west, and from the LaFourche and Teche regions on the south to Ouachita on the north. Wherever people settled they engaged in agriculture, so that isolated farm units dotted the entire landscape of the territory. Whenever possible, because of the rich fertility of the soil and the easy access to market, prospective farmers chose lands bordering upon waterways. Thus there were large concentrations of people along the banks of the Mississippi and Red rivers and Bayous LaFourche and Teche, most of whom were small farmers. There was only one plantation area in the entire territory. It was the upper coast of the Mississippi River from New Orleans to Bayou Manchac. In this region moderate-sized plantations worked by gangs of slaves were common.

The typical farmer worked hard and long to produce food for his family and a cash crop for export. Since he

usually owned very few, if any, slaves, he, together with the members of his family, worked the fields, harvested the crops, and brought them to New Orleans for sale. Pirogues, flat-boats, bateaux, and barges loaded with cotton, vegetables, tobacco, and corn crowded the city's docks daily. Small farmers did not engage in sugar cultivation, since it required a large capital investment and large numbers of slaves. The most prosperous farmers of the territory were found in the counties of Acadia, Opelousas, and Atakapas. Governor Claiborne, who journeyed through these areas in the summer of 1806, was much impressed with the numerous well-kept farms and industrious people who worked them.¹

One of the most interesting sources of information on the farming potential of Orleans was an article in the Louisiana Gazette in September, 1806. It stated that industrious emigrants without slaves or great property could not expect to occupy the fertile, highly cultivated lands of the territory, but should seek the potentially rich soil of the counties of Atakapas, Opelousas, Rapides, Natchitoches, and Ouachita, and the bottomlands of the Amite and Comite rivers in the Baton Rouge area. In these regions lands were available for from two to four dollars an acre, and water

¹Claiborne to the President, July 15, 1806, Clarence E. Carter (ed.), Orleans Territory, 1803-1812 (Volume IX of Territorial Papers of the United States, Washington: Government Printing Office, 1940), 672-73; Claiborne to the President, July 25, 1806, ibid., 677-78.

transportation was convenient. Opelousas and Atakapas offered the additional advantages of extensive prairies which eliminated the time-consuming task of clearing the land. There a family of six could establish itself at a cost of \$1,306 for land, horses, cattle, swine and poultry, a dwelling, ploughs, carts, and provisions and clothing. The first year the farmer could pick a half crop of cotton amounting to about 6,000 pounds, which, when sold at four dollars a hundred-weight, would yield \$240. In the meantime the farmer could improve his land, clear more fields, and enlarge his house. He would be on his way to becoming a slave-owning planter.² Although "An American" probably exaggerated the ease and rapidity with which a farmer could rise to a planter status in order to encourage immigration to the territory, at the same time he presented a generally accurate picture of the establishment of a small agriculturalist. That small farmers were definitely attracted to the territory can readily be seen from the increase in population. Although the early censuses did not give occupations of the people, it can be assumed that the majority of those in counties outside of Orleans were farmers of moderate means because of the absence of other lucrative occupations.

During the territorial period, the planters of Orleans engaged mainly in sugar cultivation. The larger ones generally resided along the Mississippi River. There were

²Louisiana Gazette (New Orleans), September 19, 1806.

some scattered plantations located in other regions of the territory, such as along Bayous LaFourche and Teche, the Red River, and at Pointe Coupée, but they were usually moderate in size, since they had not long been established. The lands along Bayous LaFourche and Teche, which later became two of the great plantation regions of Louisiana, were not yet thought to be capable of producing sugar, although a few enterprising men were experimenting with it. Most of the planters along these bayous grew cotton or rice.³

The plantations along the Upper Coast of the Mississippi River usually had a frontage of five to twenty-five arpents along the river and a depth of forty arpents.⁴ Even before the start of the American period, all the lands bordering both banks of the Mississippi from New Orleans to Baton Rouge had been granted.⁵ The Upper Coast, by 1803, was particularly devoted to the cultivation of sugar cane which had replaced indigo as the staple crop. In fact it was one of the Coast planters, Etienne Boré, who first

³Claiborne to the President, July 25, 1806, Carter (ed.), Orleans Territory, 678.

⁴The term acre and arpent were used interchangeably in Orleans although the former became more common in the American period. As an area measurement an arpent equaled about 5/6 of an acre and as a linear measure 192 feet. Joseph Kenton Bailey, A Manuel on Examination of Louisiana Land Titles (New Orleans: The Industries Publishing Company, 1942), 278.

⁵"Queries respecting Louisiana, with Answers," 1803, enclosed in Clark to the Secretary of State, September 8, 1803, Carter (ed.), Orleans Territory, 34.

successfully introduced sugar culture into the area in 1795. Boré, like the rest of the Mississippi River planters, had depended upon indigo as a staple crop until the early 1790's. Then he and his fellow planters were almost ruined overnight when insects began attacking the indigo plants. In the search for other crops to grow in place of indigo, Boré in particular experimented with sugar cane. In 1796 he harvested his first crop and successfully granulated his sugar which brought him \$12,000. Thus Boré saved the plantation economy of Louisiana. Following Boré's example, one planter after another along the Mississippi River turned to sugar production to rebuild his fortunes.⁶

The cultivation of sugar cane on the Mississippi Coast grew so rapidly that by 1805 there were a number of planters with an annual income of from \$12,000 to \$25,000.⁷ It is

⁶Claiborne to Jefferson, July 10, 1806, Dunbar Rowland (ed.), Official Letterbooks of W. C. C. Claiborne, 1801-1816 (6 vols.; Jackson: State Department of Archives and History, 1917), III, 362-63; Charles Gayarré, History of Louisiana (4th ed., 4 vols.; New Orleans: Pelican Publishing Company, 1965), III, 346-50.

⁷Louisiana Gazette, September 16, 1806. Some of the Coast planters of 1805 with the numbers of slaves they employed and their incomes were:

Name	Number of Working Hands	Income
M. Lisle Sarpy	28	\$13,175
Alexandre LaBranche	60	\$21,205
M. Louis Habine	47	\$18,037
Messrs D. & L. LaBranche	44	\$18,726
M. Manuel Andry	40	\$14,774
M. Jacques Fortier	40	\$21,350
M. Eugene Fortier	45	\$16,790
M. Norbert Fortier	42	\$14,720
M. Adelard Fortier	48	\$16,854
M. Pilfero	45	\$20,160
M. Destréhan	50	\$20,335

not surprising that Governor Claiborne remarked the next year that the "facility with which the sugar Planters amass wealth is almost incredible. . . ."8

Although Orleans sugar planters made their fortunes rapidly, their initial costs were high. The amount of capital needed depended upon the area in which the planter settled. A sugar plantation of 800 acres on the Mississippi River with dwelling, out-houses, sugar works in good condition, and a crop planted would cost a prospective planter \$50,000 with one-fourth down and the remainder due in three years. For such a unit, sixty prime Negroes costing \$500 each, or a total of \$30,000, as well as a herd of cattle totaling about \$4,000 would be needed. In the aggregate such a plantation would cost \$84,000, but it would clear an annual income of \$19,400 on an average after expenses or about 23 percent on the capital invested. To a great extent, proximity to New Orleans determined the value and desirability of plantation land. For example, a twenty-arpent front plantation on the Acadian coasts in every way similar to that described on the Orleans or German coasts would cost only \$68,000, but would produce the same amount of sugar and would return a profit of over 28 percent on the capital invested. A similar establishment on Bayou LaFourche would cost initially only \$58,000 and would yield the same crop

⁸Claiborne to Jefferson, July 10, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 363.

with only one additional expense--\$400 for transporting the crop to market. Thus the Bayou LaFourche planter would clear 33 percent on his capital.⁹

Cotton plantations were even more numerous than sugar plantations in Orleans. The difference in the costs of setting up a sugar or a cotton plantation resulted from the fewer number and less skilled, and thus less expensive, slaves needed for the latter, and the lower cost of land suitable to cotton. The cost of an average cotton plantation of 600 acres with dwelling house, gin, and thirty Negroes in the Orleans or Mississippi territories was estimated at \$21,000. Such an establishment would produce a crop valued at \$6,000 which, after expenses, would yield a profit of \$4,735, or over 22 percent.¹⁰ Because of the smaller capital needed, cotton plantations and farms sprang up in all sections of the territory, and cotton became its most valuable crop.

The two staple crops of the Orleans Territory were sugar and cotton. Sugar cane was almost exclusively grown on plantation units along the Mississippi River and to a lesser extent along Bayous LaFourche and Teche and at Pointe Coupée. An acre of sugar cane produced, even in poor years, 1,000 pounds of sugar at \$8 per hundredweight and one barrel

⁹Louisiana Gazette, September 19, 1806.

¹⁰Ibid.

of molasses at \$7.50, for a total of \$87.50. It was the most profitable crop of the territory. Cotton was grown from one end of the territory to the other in both plantation and farm units. An acre planted in cotton yielded on an average 1,000 pounds of cotton in seed or 250 pounds of clean cotton which sold at 20 cents per pound or \$50.¹¹

In addition to the staple crops, planters engaged in rice cultivation. Most of the rice plantations were found in the southern part of the territory, especially along Bayous LaFourche and Teche. An acre planted in rice yielded twenty barrels of rough rice, or ten barrels of clean rice weighing one and three-fourths hundredweight each valued at \$3.00 per hundredweight, or \$52.50. Rice did not become a major staple crop because it was grown in the same areas as sugar cane which brought a greater profit. Another crop extensively cultivated, not as a staple, but for home consumption was corn, which was grown, along with vegetables, on almost every farm and plantation in conjunction with one of the cash crops. An acre of corn produced on an average of twenty barrels in the ear, or about twenty-two bushels in grain valued at 75 cents per bushel or \$16.50. Corn was produced only in small amounts for immediate needs because of the small profit realized.¹²

¹¹Ibid., September 16, 1806.

¹²Ibid.

Because of its high productivity, the price of land in the territory rose at least threefold and in some cases tenfold from 1803 to 1810, the population more than doubled, and exports increased more than three times.¹³ The production of crops increased impressively in the same period. The figures for 1802 were: 20,000 bales of cotton of 300 pounds each, 30,000 pounds of indigo, 5,000 hogsheads of sugar at 1,000 pounds each, and 5,000 casks of molasses of 50 gallons each. For 1810, they were: cotton, 41,290 bales, indigo, 45,800 pounds, sugar, 9,671 hogsheads, and molasses 3,590 casks.¹⁴ The drop in molasses is explained by the fact that the Orleans planters were granulating more of their sugar than previously; however, the increased indigo production is startling because, according to contemporary accounts, indigo was declining as a staple crop. In 1810 tobacco was also listed as a valuable crop. That year 20,650 carrots were produced in the settlements along the Red River, and they were valued from 3 to 4 shillings per carrot. In addition to the increased agricultural products, there was an impressive growth in the number of plants processing

¹³Ibid., September 20, 1810 quoted from the National Intelligencer.

¹⁴Francois-Xavier Martin, The History of Louisiana From the Earliest Period (2nd ed.; New Orleans: Pelican Publishing Company, 1963), 317; "Queries respecting Louisiana, with Answers," 1803, enclosed in Clark to the Secretary of State, September 8, 1803, Carter (ed.), Orleans Territory, 46; Louisiana Gazette and New Orleans Daily Advertiser, April 11, 1811.

agricultural products and their total output. In 1802 there were about twelve distilleries near New Orleans producing 4,000 fifty-gallon casks of taffia, a poor quality rum. By 1810 the figure had increased to seventeen distilleries and 5,065 casks. That year there were also ninety-one sugar works, 249 cotton gins, and forty indigo works operating in the territory.¹⁵ Although there are no figures for such establishments in 1802, it can be assumed that a large increase had taken place.

As plantations developed in the Orleans Territory, the demand for slaves became correspondingly greater. As has been stated before, many residents of Orleans felt that slavery was absolutely necessary for the continued prosperity of the territory, and they determined to bring in as many Negroes as possible before the United States government forbade their importation by law. In particular, the planters desired the introduction from Africa of "brute" Negroes who were capable of working the fields, and yet not tinged with the revolutionary spirit of the Santo Domingo slaves.¹⁶ Under Claiborne's temporary governorship, it will

¹⁵Louisiana Gazette and New Orleans Daily Advertiser, April 11, 1811.

¹⁶Watkins' Report, misdated February 2, 1804, James A. Robertson (ed.), Louisiana Under the Rule of Spain, France, and the United States, 1785-1807 (2 vols.; Cleveland: The Arthur H. Clark Company, 1911), II, 318-19; Claiborne to Madison, March 1, 1804, ibid., 254; Claiborne to Madison, May 8, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 134.

be recalled, the importation of slaves was allowed, because the Governor did not feel that he had authority to modify any of the existing laws except in case of danger to the peace and safety of the province.¹⁷ His only action in restricting the slave trade was to prohibit the entrance of dangerous Negroes from Santo Domingo.¹⁸ The Governor also tried to placate slaveholders in February, 1804, by issuing an ordinance offering amnesty to runaway slaves who would voluntarily return to their masters within a two-month period.¹⁹ But he secretly awaited the arrival of October 1, 1804, the day after which the importation of slaves from outside the United States would be prohibited under the act creating the Territory of Orleans.²⁰ The inhabitants of Louisiana, on the other hand, convinced that ruin would come to their province if the foreign slave trade was closed off, petitioned the United States government in the famous Memorial of 1804 to allow the importation of slaves from foreign countries, but, as noted previously, to no avail. The territorial act of March 2, 1805, continued the

¹⁷Claiborne to President Jefferson, January 16, 1804, Carter (ed.), Orleans Territory, 163-64.

¹⁸Claiborne to Madison, July 12, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 245-46.

¹⁹A Proclamation, February 21, 1804, ibid., I, 379-81.

²⁰Claiborne to Madison, July 12, 1804, ibid., II, 245-46.

prohibition of the foreign slave trade.²¹ In conformity with this act, Governor Claiborne ordered Captain Abimael Nicoll, commanding officer at Plaquemine, to examine every vessel coming from a foreign port for slaves not forming a part of the crew, and in cases where such Negroes were present to detain the vessel until further orders from him.²²

In addition to outlawing the foreign slave trade, the organic act of the territory also prohibited the entrance of any slave into the territory who had been imported into the United States after May 1, 1798, and forbade the importation of other slaves except by their bona fide owners who were moving into the territory.²³ These restrictions on the domestic slave trade, however, did not remain in force long. With the passage of the second territorial act of March 2, 1805, lawyers of New Orleans unanimously expressed the opinion that the new law repealed the prohibitions against the importation of slaves contained in the 1804 act by extending to the inhabitants of Orleans all the rights, privileges, and advantages enjoyed by the people of the Mississippi Territory. According to the attorneys, these rights, privileges,

²¹Act for the Government of Orleans Territory, March 2, 1805, Carter (ed.), Orleans Territory, 405-407.

²²Claiborne to Abimael Nicoll, March 9, 1805, ibid., 414-15.

²³An Act for the Organization of Orleans Territory and the Louisiana District, March 26, 1804, ibid., 209-10.

and advantages included the right to bring in slaves previously introduced legally into any of the states of the Union. William Brown, collector of customs at New Orleans, requested an opinion on the subject from James Brown, the United States district attorney for Orleans. Brown replied that any slaves imported into any of the states previous to the law creating the Mississippi Territory, April 7, 1798, could be introduced legally into the Orleans Territory either for sale or for the use of their owners. In regard to slaves imported after that date, Brown expressed some doubt as to whether they could be introduced legally and suggested that the Attorney General of the United States give an opinion on the question.²⁴ Later, the Attorney General decided that the inhabitants of Orleans could legally import slaves from any port or place within the United States.²⁵ Thus in 1806 the domestic slave trade revived. The foreign slave trade, however, remained closed and was even further checked by the act of Congress of March 2, 1807, which completely banned the importation of slaves from without the United States after January 1, 1808.²⁶ Even after that date, however, a few foreign slaves were slipped

²⁴Moniteur de la Louisiane (New Orleans), November 23, 1805; James Brown to the Secretary of the Treasury, December 11, 1805, Carter (ed.), Orleans Territory, 547-48.

²⁵Louisiana Gazette, February 28, 1806.

²⁶United States Statutes at Large, II, 426-30.

into the territory by the numerous smugglers and privateers operating in the Gulf of Mexico.

Due to importations and to natural increase, the number of slaves in the territory multiplied rapidly during the years 1803-1811. Daniel Clark estimated the number of slaves in the Spanish districts which later composed Orleans as 11,450 in 1803. Clark admitted that this approximation was probably too low, because he lacked accurate information for some districts and many slaves were not listed to avoid the payment of taxes.²⁷ By the territorial census of 1806,

²⁷Daniel Clark to James Madison, August 17, 1803, Despatches from the United States Consuls in New Orleans, 1798-1807 (General Records of the Department of State. File Microcopies of Records in the National Archives: No. T-225. Microfilm in possession of author), I. The districts and numbers of slaves presented by Clark were:

District	Number of slaves
New Orleans	2,773
First German Coast	1,620
Second German Coast	1,046
First Acadian Coast	818
Second Acadian Coast	464
Valenzuela	267
Iberville Parish	386
Galveztown	26
Pointe Coupée	1,603
Atakapas	530
Opelousas	808
Avoyelles	94
Rapides	169
Natchitoches	846
Baton Rouge (part of Orleans after 1810)	539

the number of slaves had risen to 22,701,²⁸ and by 1809, it was 29,474.²⁹

As the number of slaves in the territory grew so did the problem of their control and the danger of insurrection. As a matter of fact, before the first year of American

²⁸A general return of the Census of the Territory of Orleans taken for the year 1806, December 31, 1806, Carter (ed.), Orleans Territory, 702. The figures for that year according to counties were:

German Coast	3,285
Iberville	965
Lafourche	610
Pointe Coupée	2,251
Opelousas	1,091
Rapides	716
Natchitoches	1,209
Orleans	8,378
Atakapas	1,826
Ouachita	122
Acadia	2,248
Concordia	no figure

²⁹A general return of the Census of the Territory of Orleans taken from the Louisiana Gazette, September 20, 1810. The figures that year according to parishes were:

Orleans	9,139
St. Bernard	277
Plaquemine	697
St. Charles	2,174
St. John Baptist	1,474
St. James	1,823
Ascension	941
Assumption	487
Interior of Lafourche	375
Iberville	1,016
Baton Rouge	533
Pointe Coupée	3,060
Concordia	1,080
Ouachita	208
Rapides	867
Avoyelles	330
Catahoula	183
Natchitoches	1,419
Opelousas	1,323
Atakapas	2,178

possession had passed, Orleans was alive with rumors of a slave revolt. In September, 1804, an alarmed group of prominent whites in New Orleans notified Governor Claiborne of the existence of such a plot within the city and asked him to use all means available to uncover it and to punish swiftly and severely the Negroes involved as an example to all others.³⁰ The bases of the whites' fears were some menacing remarks which two Negroes were overheard to make, a spirit of restlessness among the slaves, and the recent arrest of several blacks for bearing arms at night. Although he did not share the inhabitants' anxiety, the Governor took some precautionary measures. He increased the nightly patrols in the city, armed the Orleans Battalion of Volunteers with public muskets, and ordered the city militia to be on the alert. At the same time, Lieutenant Colonel Constant Freeman provided the guard of regular troops in the city with twenty-four rounds of cartridges per person and ordered the rest of the troops outside of the city to be ready at a moment's notice.³¹ All the preparations were unnecessary, for nothing came of the supposed plot.

This was the first of a number of such unfounded

³⁰"Petition of the Inhabitants and colonists of Louisiana to Governor Claiborne," September 17, 1804, Carter (ed.), Orleans Territory, 296-97.

³¹Claiborne to the President, September 18, 1804, ibid., 298; Claiborne to Madison, September 20, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 337-38.

rumors, for less than two months later stories of an impending slave revolt rocked the northern districts of the territory. As has been stated previously, in the late summer and fall of 1804 the Spanish authorities in Texas actually offered refuge to runaway slaves from Louisiana. The slaveholders of Natchitoches reported that, as a consequence, their Negroes were in an insurrectionary state. By November, 1804, the news of the Spanish offer had also reached the slaves of Pointe Coupée county, where shortly thereafter a Negro plot to destroy the whites was discovered by some of the planters. The inhabitants of Pointe Coupée immediately petitioned Governor Claiborne for a military detachment and arms for the outnumbered white citizens.³² Claiborne, fearing that any place in the territory distant from the capital might fall prey to a Negro revolution like that of Santo Domingo, requested Colonel Thomas Butler, in command of the troops at New Orleans, to send a subaltern and twenty or thirty men to Pointe Coupée immediately with an extra 100 stand of arms for the use of the local militia. The Governor, however, realized that it was impossible to disperse the few troops in New Orleans effectively throughout the entire territory, in the event of trouble. Therefore, he recommended to the Secretary of State an augmentation of

³²"Petition to Governor Claiborne by the Inhabitants of Pointe Coupée," November 9, 1804, Carter (ed.), Orleans Territory, 326.

the regular military establishment in the city and ordered the commandants throughout the province to remain on the alert for signs of disturbances among the blacks and to maintain regular nightly militia patrols.³³ The plot did not develop and Governor Claiborne, through correspondence with the Marquis de Casa Calvo, arranged for the return of the runaway slaves to their masters in Natchitoches.³⁴

Although no real plot of the blacks against the whites had actually developed, when the first session of the Legislative Council met in December, 1804, it adopted a measure providing for the speedy trial and punishment of slaves accused of committing crimes and misdemeanors. Until this time the old Spanish black code had been considered in effect, but it had never been officially proclaimed. The act of May 4, 1805, stipulated that slaves should be punished according to the old Spanish law of the colony provided the punishment was not cruel or unusual. It gave the county courts jurisdiction of all cases involving crimes and

³³Claiborne to Madison, November 8, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 394; Claiborne to Colonel Butler, November 8, 1804, ibid., III, 5; Claiborne to the District Commandants, November 8, 1804, Carter (ed.), Orleans Territory, 325-26.

³⁴Claiborne to the Marquis de Casa Calvo, November 8, 1804, Rowland (ed.), Claiborne's Letterbooks, III, 5-6; Claiborne to Casa Calvo, November 9, 1804, ibid., 8-9; Marquis de Casa Calvo to Claiborne, November 9, 1804, Carter (ed.), Orleans Territory, 328-29; Marquis de Casa Calvo to Claiborne, November 10, 1804, ibid., 331-32; Edward Turner to Claiborne, November 21, 1804, ibid., 335.

misdemeanors committed by slaves except murder, which was to be brought before the Superior Court of the territory. In the county courts trials were to be before the judge and four discreet householders who replaced a regular jury.³⁵

The new law did nothing to reduce the reports of plots of slave insurrections. In September, 1805, the most daring such plot to that date was disclosed. A white man, Grand Jean, who also went under the name LeGrand, planned to lead the Negroes of New Orleans in revolt, massacre the whites, and take over the city or, in case of failure, pillage and burn it. To foster this plan, Grand Jean, who had only recently arrived from Santo Domingo, distributed leaflets among the slaves and such free Negroes as could be trusted, and posted placards at the market house which were quickly removed by the police. The leaflets and placards urged the Negroes to rise up against the whites. One of the leaflets fell into the hands of Celestin, a mulatto slave who immediately revealed the plot to his master, a Mr. Robelot, who then reported it to the mayor of New Orleans. Mayor Watkins sent several trustworthy free mulattoes of good reputation to Grand Jean, under the pretense of wanting to join the plot, as his intelligence agents. They reported that Grand Jean planned to unite all the Negroes in Orleans

³⁵An Act for the punishment of crimes and misdemeanors, May 4, 1805, Acts Passed at the First Session of the Legislative Council of the Territory of Orleans . . . (New Orleans: James M. Bradford, 1805), 416-54.

and some in Mississippi in a revolt. Watkins determined to obtain further evidence against Grand Jean by secretly listening to one of his clandestine meetings, but the mayor's plan went awry, and he had to arrest the intriguer before learning if he had any other white accomplices. The mayor blamed the planned insurrection on the city's large numbers of worthless free people of color and dangerous slaves who had been brought in from Santo Domingo, Martinique, and Jamaica, and on the ineffectiveness of the militia. He recommended that regular troops be augmented immediately.³⁶ For several days after the disclosure of the plot the inhabitants of the city remained in a state of anxiety. On September 16, Secretary Graham, who was in charge of the territory while Claiborne was visiting the country, reported that peace and quiet had been restored.³⁷

The revelation of the planned slave uprising in New

³⁶John Graham to James Madison, September 2, 1805, Territorial Papers: Orleans Series, 1794-1813 (General Records of the Department of State. File Microcopies of Records in the National Archives: No. T-260. Microfilm in the New Orleans Public Library, New Orleans, Louisiana), VI; Watkins to Graham, September 6, 1805, Carter (ed.), Orleans Territory, 501-504; Graham to the Secretary of State, September 9, 1805, ibid., 499-500; session of September 7, 1805, Conseil De Ville: Proceedings of Council Meetings, No. 1, Book II (Typescript Copy. City Archives, New Orleans Public Library, New Orleans, Louisiana). Hereinafter cited as Conseil De Ville.

³⁷Graham to Claiborne, September 16, 1805, Carter (ed.), Orleans Territory, 304; sessions of October 5, 12, 1805, Conseil De Ville, No. 1, Book II. As a reward for his intelligence, the city bought Celestin for \$2,000 and set him free.

Orleans convinced the territorial legislature that a more stringent and better defined slave code was needed. In its next session, therefore, it adopted a black code. The basis of the code was the Spanish black code which had been proclaimed by Governor O'Reilly and which in turn was based on the old French black code originally promulgated by Governor Bienville in 1724.³⁸ The territorial black code contained forty sections regulating in detail the relations between masters and their slaves. It placed certain responsibilities on the master, such as providing his slaves rations and clothing, paying them for working on Sundays, and caring for them when sick, old, or disabled. The code also stipulated the hours of work and rest for slaves. Masters could not separate disabled slaves from their children or children under ten years old from their mothers by sale. Slaves were considered real estate which could be mortgaged or seized and sold for non-payment of debts. Their rights and activities were severely restricted. No slave could offer provisions for sale without written permission from his master, nor could any slave possess or dispose of any property without his master's consent. A slave could not be a party to a civil suit, testify against whites, or carry arms. The black code provided penalties for a slave violating its provisions, such as twenty lashes for being away from his residence or

³⁸Gayarré, History of Louisiana, I, 362, III, 606.

place of work and twenty-five lashes for traveling by horse-back without permission. It contained provisions for the capture of runaways, their arrest and confinement, and eventual sale, if not claimed. The code also stipulated penalties for a master neglecting to care for his slave or in any other way violating the code.³⁹

While adopting a black code, the legislature also passed an act specifically calling for the death penalty for any person or persons who in any way advised or encouraged slaves to rise up against their masters, the white people, or the government of the territory. The act provided a fine of from \$1,000 to \$2,000 and a year's imprisonment for any person convicted of illegally transporting slaves out of the territory.⁴⁰ The legislature also prohibited the entrance of any more male free persons of color from Hispaniola and other French islands and provided a three-months period in which they were to quit the territory under the penalty of imprisonment.⁴¹ In 1807 this act was replaced by a statute

³⁹Black Code: An Act prescribing the rules and conduct to be observed with respect to Negroes and other Slaves in the Territory, June 7, 1806, Acts Passed at the First Session of the First Legislature of the Territory of Orleans . . . (New Orleans: Bradford and Anderson, 1807), 150-90.

⁴⁰An Act to amend an act, entitled "An act for the punishment of crimes and misdemeanors," June 7, 1806, ibid., 122-26.

⁴¹An Act to prevent the introduction of Free People of Color from Hispaniola, and other French Islands of America into the Territory of Orleans, June 7, 1806, ibid., 126-30.

prohibiting the immigration of all free Negroes and mulattoes into the territory.⁴²

The enactment of these laws did not prevent the outbreak of slave insurrections in the territory. In early January, 1811, the slaves of the German Coast (St. Charles and St. John the Baptist parishes), variously estimated to number from 180 to 500, revolted against their masters. The insurrection began on January 8, 1811 on the plantation of Colonel Manuel Andry about thirty-six miles above New Orleans, where the Negroes wounded the Colonel and killed his son. Grabbing weapons and clubs, fortified with liquor, marching in order with flags flying and drums beating, and led by several chiefs on horseback, the Negroes moved toward the plantation of Jacques Fortier.⁴³ Their ultimate objective was New Orleans. Receiving news of the insurrection on January 9, Governor Claiborne ordered all cabarets in the city and suburbs of New Orleans closed and imposed a 6 o'clock curfew on all male Negroes. He also ordered all the militia, including the colored units, in the city, as well as those of the Coast region, on duty during the emergency. Claiborne immediately asked General Wade Hampton, in command of the

⁴²An Act to prevent the emigration of Free Negroes and mulattoes into the Territory of Orleans, April 14, 1807, Acts Passed at the Second Session of the First Legislature of the Territory of Orleans . . . (New Orleans: Bradford and Anderson, 1807), 180-82.

⁴³Courier de la Louisiane (New Orleans), January 14, 1811; Moniteur de la Louisiane, January 14, 15, 1811.

regular troops in the territory and who had only arrived in the city two days earlier, for assistance. Hampton reported that the city militia was in complete confusion, but as soon as two companies of the volunteer militia were organized, he joined them with thirty regular troops and led the detachment out of the city at dusk to meet the brigands. On the march the General encountered a company of seamen sent by Commodore Shaw, the naval commander at New Orleans, and also took control of them. On the road the military met panic-stricken citizens fleeing from the troubled area.⁴⁴

The military force under General Hampton reached Jacques Fortier's plantation, where the rebels were encamped, at 4:30 on the morning of January 10. The General immediately laid plans to encircle the Negroes, but they dispersed before the movement could be executed. Retreating in great haste about twelve and a half miles down the Mississippi, they were met by about 80 of the militia from across the river led by the wounded Colonel Andry. An engagement immediately ensued in front of the plantation of Bernard Bernoudy in which some of the Negroes were killed, eighteen

⁴⁴Wade Hampton to the Secretary of War, January 16, 1811, Carter (ed.), Orleans Territory, 917-18; Claiborne to the Secretary of State, January 9, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 95-96; Circular to the Several Colonels of Regiments, and the several Parish Judges on the coast, ibid., 96; Louisiana Gazette and New Orleans Daily Advertiser, January 10, 1811; Moniteur de la Louisiane, January 12, 1811; Courier de la Louisiane, January 11, 1811.

or twenty were captured, and others fled into the woods and swamps. Detachments of the militia immediately gave chase and captured many of them. Meanwhile, Major Homer Milton arrived with about 150 regular reinforcements from Baton Rouge who were stationed in the ravaged area to ensure continued peace and order.⁴⁵ For several days the militia detachments searched the woods and swamps for the brigands who had escaped, taking them into custody or killing them in their hiding places. Some of the ring leaders were captured, especially a Charles Deslondes, a mulatto. The slaves captured but not executed immediately were tried before the courts of Orleans and St. Charles parishes. On the German Coast sixty-six Negroes were killed or executed, seventeen were missing and presumed dead, and sixteen were sent to New Orleans for trial. Most of the slaves tried in New Orleans were convicted, executed, and their heads were placed on high poles and posted outside of the city and along the river as far as Colonel Andry's plantation, where the revolt had begun. This seemingly cruel execution was carried out because the white inhabitants agreed that an example had to be made of

⁴⁵Claiborne to the Secretary of State, January 11, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 96; Louisiana Gazette and New Orleans Daily Advertiser, January 11, 1811; Courier de la Louisiane, January 11, 14, 1811; Hampton to Claiborne, January 12, 1811, Carter (ed.), Orleans Territory, 916-17; Moniteur de la Louisiane, January 17, 1811.

the brigands which could not be forgotten soon by the slaves in general.⁴⁶

Luckily, the insurrection was not widespread nor the damage inflicted heavy. The slaves on the west side of the river and those below New Orleans remained orderly during the emergency. The revolt was strictly limited to the Negroes on Colonel Andry's plantation and a few neighboring ones. Only two or three citizens lost their lives, and three plantation homes were burned. None of the sugar mills or sugarhouses sustained any injury. The greatest loss to the planters was the slaves themselves, of whom some one hundred were killed or hanged. There seemed to have been no ulterior motive for the Negroes' action, although General Hampton expressed the opinion that the outbreak was of Spanish origin.⁴⁷

The insurrection was not soon forgotten by the whites. When Governor Claiborne convened the second session of the Third Legislature, which had been delayed because of the

⁴⁶Hampton to Claiborne, January 12, 1811, Carter (ed.), Orleans Territory, 916-17; Claiborne to Jean N. Destréhan, January 19, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 107-108; Courier de la Louisiane, January 11, 1811; Moniteur de la Louisiane, January 12, 17, 1811; Louisiana Gazette and New Orleans Daily Advertiser, January 17, 21, 1811.

⁴⁷Hampton to Claiborne, January 12, 1811, Carter (ed.), Orleans Territory, 916-17; Claiborne to Destréhan, January 19, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 107-108; Courier de la Louisiane, January 11, 1811, Moniteur de la Louisiane, January 12, 17, 1811; Louisiana Gazette and New Orleans Daily Advertiser, January 17, 21, 1811.

uprising, he called for stronger prohibitions against indiscriminate importation of slaves, declaring that convicts pardoned for crimes on condition of transportation were often introduced into the territory.⁴⁸ Subsequently the legislature considered a bill to restrict the introduction of slaves from the rest of the United States into Orleans, but it failed to pass.⁴⁹ The legislature, however, did vote compensation to owners for slaves killed or executed in the insurrection and for houses burned.⁵⁰ It also authorized an appropriation of \$2,500 to cover expenses incurred by the territorial militia during the uprising.⁵¹ Lastly the legislature further resolved that the name or names of any slaves who distinguished themselves by saving the life of a white person during the rebellion were to be transmitted to it,⁵² presumably for the purpose of rewarding them. The legislators, however, did nothing towards changing the black code

⁴⁸Speech delivered by Governor Claiborne to both Houses of the Legislative Body of the Territory of Orleans, January 29, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 123.

⁴⁹Courier de la Louisiane, March 1, April 3, 1811.

⁵⁰An Act Providing for the payment of Slaves killed and executed on account of the late Insurrection in this Territory and for other purposes, April 25, 1811, Acts Passed at the Second Session of the Third Legislature of the Territory of Orleans . . . (New Orleans: Thierry, 1811), 132.

⁵¹An Act Directing the payment of certain accounts, April 30, 1811, ibid., 188.

⁵²Resolution, February 5, 1811, ibid., 196.

or other statutes regulating the activities of Negroes.

New Orleans, on the other hand, did adopt a measure designed to help prevent further trouble among the slaves. A few days after the insurrection had subsided, the city council adopted an ordinance stating that no slave could sleep or lodge in any other house than that of his master, overseer, or the person to whom the Negro was hired without written permission under a penalty of 25 lashes for the slave. Nor could anyone rent a house, apartment, or room to a slave, even with the permission of his master, under a penalty of a fine from \$10 to \$25 for the proprietor and also the master, in case his permission was given. The ordinance also forbade slaves from gathering together, either in public or private, under a punishment of 10 to 25 lashes for each slave so meeting. The only exceptions were funerals and gatherings for sports and dances, but even the latter two were limited to Sundays before sunset. Finally, the ordinance prohibited any slaves from carrying a stick or cane on public streets, unless blind or infirm, under penalty of 25 lashes for each offense.⁵³

Despite the fear of slave insurrections nothing was done to curb the development of slavery in the territory because public opinion was in favor of the institution. The dominant element of society, the planter class, continued to

⁵³Courier de la Louisiane, January 19, 1811. This law, like many others, was not consistently enforced.

be fully convinced that their prosperity depended on slave labor. Even the non-slaveholders had a reason for wanting the institution continued, for to a great extent the cost of the territorial government was sustained by taxes imposed upon slaves. The first act which placed an annual tax of \$.50 on each slave was approved April 19, 1805.⁵⁴ By an act of April 10, 1807 the tax was raised to \$.75 per slave, and taxes were also imposed on land.⁵⁵ In 1809 the tax on land, as well as the one on slaves, was made annual.⁵⁶ Thus, at least indirectly, all the people of the territory had an economic stake in slavery, which, in their minds, outweighed the evils which accompanied the system.

⁵⁴An Act imposing a tax on Slaves, April 19, 1805, Acts Passed at the First Session of the Legislative Council of the Territory of Orleans, 336-44.

⁵⁵An Act Levying a tax on Lands and Slaves in the Territory of Orleans, April 10, 1807, Acts Passed at the Second Session of the First Legislature of the Territory of Orleans, 140-66.

⁵⁶An Act to continue in force and make annual an act entitled "An act for levying a tax on lands and slaves in the Territory of Orleans," and for other purposes, March 18, 1809, Acts Passed at the Second Session of the Second Legislature of the Territory of Orleans . . . (New Orleans: Louisiana Courier, 1809), 56-58.

CHAPTER X

CULTURE

When the United States acquired Louisiana at the end of 1803, it had virtually no educational system. There were no colleges, only one public school conducted in the Spanish language and supported from the king's revenues, and a few private schools. There was also a boarding school for female youths managed by the Ursuline nuns in New Orleans. Probably less than half of the inhabitants could read or write French, and few exhibited any learning beyond these rudiments.¹ Soon after his arrival in New Orleans Governor Claiborne wrote Secretary of State Madison: "by far the greater part of the people are deplorably [*sic*] uninformed. The wretched Policy of the late Government having discouraged the Education of youth, the attainments of some of the first people consist only of a few exterior accomplishments."²

¹"Queries Respecting Louisiana, with Answers," 1803, enclosed in Daniel Clark to the Secretary of State, September 8, 1803, Clarence E. Carter (ed.), Orleans Territory, 1803-1812 (Volume IX of Territorial Papers of the United States, Washington: Government Printing Office, 1940), 38.

²Claiborne to James Madison, January 2, 1804, Dunbar Rowland (ed.), Official Letterbooks of W. C. C. Claiborne, 1801-1816 (6 vols.; Jackson: State Department of Archives and History, 1917), I, 326-27.

Governor Claiborne made a serious and sustained effort to correct this deplorable situation which he considered a major obstacle to the development of republican principles. He immediately urged the municipal council of New Orleans to take action to encourage education.³ In January, 1804, he recommended that the federal government undertake the establishment of an educational system for the territory. Writing the President, the Governor exclaimed, "I fear that if education be left entirely to the patronage of the inhabitants, it will continue to be neglected; for they are not sufficiently informed to appreciate it's [sic] value."⁴ He suggested that Congress appropriate \$100,000 annually for this purpose.⁵ Several months later Claiborne wrote Jefferson requesting the donation of federal land and buildings in New Orleans for educational purposes.⁶

Achieving no positive response from the national administration, the Governor turned to the Legislative Council of the territory. In addressing its first meeting on December 4, 1804, he emphasized the desirability of establishing seminaries of learning and making education

³Ibid.

⁴Claiborne to the President, January 16, 1804, Carter (ed.), Orleans Territory, 162.

⁵Claiborne to the Secretary of State, January 24, 1804, Rowland (ed.), Claiborne's Letterbooks, I, 346.

⁶Claiborne to Jefferson, May, 1804, ibid., 174-75.

available to all the people.⁷ The Legislative Council responded by passing an act providing for the creation of a system of secondary schools and a college, to be known collectively as the University of Orleans, and the establishment of libraries. The act named a board of regents consisting of the governor, the judges of the Superior Court and of the United States district court, the mayor and the recorder of New Orleans, the president of the Legislative Council, and seventeen other prominent citizens. These men were to elect a chancellor and vice-chancellor from among their own number to preside over their meetings. The regents were to establish immediately a college in New Orleans to be called the College of New Orleans. Its curriculum was to include courses in languages, sciences, philosophy, and literature, while its faculty was to be composed of a president and four professors.⁸

In addition to the College of New Orleans, the first educational act provided that the regents should open one or more academies, or secondary schools, in every county, an undetermined number of academies for the instruction of females, and one public library per county. The funds for

⁷Louisiana Gazette (New Orleans), December 7, 1804.

⁸An Act to institute an University in the Territory of Orleans, April 19, 1805, Acts Passed at the First Session of the Legislative Council of the Territory of Orleans . . . (New Orleans: James M. Bradford, 1805), 304-20.

public instruction were to be raised by two lotteries.⁹

Governor Claiborne issued a call for the regents to meet on July 5, 1805, at which time they elected him chancellor, James Pitot vice-chancellor, and Pierre Derbigny secretary, and named five managers for the first lottery. The profit expected from the lottery was set at \$20,000 for the support of the schools. The board also prepared a memorial by December, 1805, requesting financial aid from the federal government in the form of land or other property¹⁰ and sent it to Congress, where it was referred to the Committee on Public Lands. The committee recommended that a six-mile-square tract of land be set aside in the territory for the use of the University of Orleans and that the old Spanish school building in New Orleans be redesignated for educational use.¹¹ At approximately the same time, the Legislative Council also sent a memorial to Congress seeking a grant of lands for schools and other institutions of learning. In response to these requests, Congress set aside one section of public land in each township in the

⁹Ibid. The university system of education was based on a French plan already in practice in New York and Georgia, Stuart Grayson Noble, "Governor Claiborne and the Public School System of the Territorial Government of Louisiana," The Louisiana Historical Quarterly, XI (October, 1928), 538-39.

¹⁰Louisiana Gazette, July 19, 1805.

¹¹"Memorial to Congress from the Regents of the University of Orleans," December 9, 1805, Carter (ed.), Orleans Territory, 543-44.

Western District for the support of schools and reserved one entire township for the use of a seminary of learning.¹²

At the time the regents drew up the memorial to Congress, they also proposed a scheme of lottery consisting of 10,000 tickets priced at \$10.00 each or \$100,000. The prizes were to range from \$5.00 to \$16,000 with a guarantee that each ticket would draw at least the former sum.

Beginning in December, 1805, they advertised the lottery in the local newspapers, but the public showed little interest in it, and the tickets did not sell.¹³ In desperation, the regents made a last direct appeal to the generosity and speculative spirit of the people in July, 1806. At that time less than one-third of the tickets had been taken and no drawing had been held.¹⁴ Later, the lottery system was abandoned leaving the proposed educational system with no support.¹⁵

¹²"Petition to Congress by the Legislative Council," December 10, 1805, Carter (ed.), Orleans Territory, 544-45; United States Statutes at Large, II, 391-95, 662-66; Louisiana Gazette, May 9, 1806.

¹³Louisiana Gazette, December 17, 1805.

¹⁴Moniteur de la Louisiane (New Orleans), July 19, 1806.

¹⁵In March, 1808, the Legislature made provision for reimbursing the purchasers of tickets. An Act concerning the reimbursement of the sums paid for tickets of the lottery formerly authorised for the benefit of the establishment of an University in this Territory, March 8, 1808, Acts Passed at the First Session of the Second Legislature of the Territory of Orleans . . . (New Orleans: Bradford and Anderson, 1808), 34-36.

The difficult job of finding other means of support for schools fell on the first territorial legislature which began meeting in March, 1806. In his speech to the newly elected body, Governor Claiborne deplored the educational vacuum and once again pleaded for the establishment of public schools on the basis that universal education was vital for the well being of the republic. "The youth," he declared, "should be considered as the property of the State, their welfare should constitute a primary care of the Government--and those in power should esteem it an incumbent duty, to make such provisions for the improvement of the minds and morals of the rising generation as will enable them to appreciate the blessings of self Government, and to preserve those rights which are destined for their inheritance."¹⁶ Claiborne proposed that a primary school supported by a general tax be established in every neighborhood.¹⁷ The legislature reacted to the Governor's proposal by passing an act providing for the establishment of public schools in the counties. Under its provisions, the sheriff of each county, except Orleans, was directed to call an assemblage of the heads of families to select five commissioners who would establish free public schools according to

¹⁶Address to the Legislature of the Territory of Orleans, March 24, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 277-78.

¹⁷Ibid., 278.

local needs and resources. In Orleans the regents of the university were to fulfill the functions performed by the sheriffs in other areas. Each county was to provide support for the schools according to its own means.¹⁸ Thus, under the provisions of the law, the burden of supporting public education was shifted from the territory to the individual counties.

In 1807 the legislature did nothing in the educational field, but in 1808 it once again attacked the problem by repealing the act of May 2, 1806, and replacing it by one establishing public schools, but not free schools. The act of 1808 directed the judge of each parish to appoint a jury of from twelve to twenty-four respectable inhabitants, whose duty it was "to determine the mode, place, and amount of tuition money, for the education of youth. . . ." The group appointed by the parish judge was to superintend the schools in each parish.¹⁹ The legislature had temporarily given up the idea of free public schools.

The effort of 1808 was no more successful in establishing a system of public education than that of 1806.

¹⁸An Act to provide for the establishment of public free schools in the several counties of the Territory, May 2, 1806, Acts Passed at the First Session of the First Legislature of the Territory of Orleans . . . (New Orleans: Bradford and Anderson, 1807), 8-10.

¹⁹An Act to provide for the means of establishing public schools in the parishes of this territory, March 16, 1808, Acts Passed at the First Session of the Second Legislature of the Territory of Orleans, 20-22.

Governor Claiborne recognized its failure in his speech to the legislature in January, 1809, when he noted that only Pointe Coupée had complied with the act. He suggested that the territory buy a private academy in New Orleans but nothing came of his proposal.²⁰ The legislature of 1809 actually regressed by passing a law which stated that the previous one of 1808 did not give the parish judges authority to levy any tax on individuals who objected.²¹ In effect, this action nullified the idea of the counties levying taxes for the support of their public schools.

Nothing was accomplished in 1810 in regard to education, but the following year, with a surplus in the territorial treasury for the first time, free public schools seemed destined to receive proper support. The Governor urged that the surplus be used for "objects of utility," principally education, and suggested that four academies be established throughout the territory.²² In response, the

²⁰Governor Claiborne's Speech to the two houses of the Assembly delivered on Saturday 14th day of January, 1809, Rowland (ed.), Claiborne's Letterbooks, IV, 293.

²¹An Act to explain the act entitled "an act to provide the means of establishing public Schools in the Parishes of this Territory, March 18, 1809, Acts Passed at the Second Session of the Second Legislature of the Territory of Orleans . . . (New Orleans: Louisiana Courier, 1809), 46-48.

²²Speech Delivered by Governor Claiborne to both Houses of the Legislature of the Legislative Body of the Territory of Orleans, January 29, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 125-26.

legislature passed an act appropriating a sum not exceeding \$39,000 for the institution of one college and schools in the territory. Of this amount, \$15,000 was to be dedicated to the College of New Orleans and \$2,000 per county for schools. After the first year, the college was to receive an annual appropriation of \$3,000, and \$500 for the schools in each county.²³ Within a year the first public educational institutions in the territory were opened, but the idea of tax supported public education was not yet acceptable to the people of Orleans. They clung tenaciously to their old tradition of education as a private concern.

With the education act of 1811 the College of New Orleans also came into existence. A year earlier, the city of New Orleans had offered to donate to the proposed college part of the Treme plantation which was situated within the corporation's limits. In return, the city demanded the right of sending four scholars to the institution free. Private citizens had begun subscribing sums ranging from \$5.00 to \$200.00 for the establishment of a seminary of learning previous to the legislative appropriation of 1811. These funds were also offered to the new college.²⁴ In May, 1811,

²³An Act Supplementary to an Act entitled, "An Act to institute an University in the Territory of Orleans," April 9, 1811, Acts Passed at the Second Session of the Third Legislature of the Territory of Orleans . . . (New Orleans: Thierry, 1811), 64-67.

²⁴Louisiana Gazette and New Orleans Daily Advertiser, December 11, 13, 1810, January 4, 1811.

the Board of Regents unanimously accepted both the plantation and the private subscriptions, joining them to the legislative appropriation.²⁵

Having obtained support for the college, the Board of Regents engaged in a month's discussion over the question of the exact location of the institution. Besides the city's offer of the Treme plantation, several private individuals also offered sites for the college.²⁶ The regents finally decided to situate it on the old Treme plantation, and in August, 1811, advertised for a faculty.²⁷ After some other organizational delays, the college opened its doors on November 4, 1811. The following April, the end of the territorial period, it had a total of seventy students.²⁸

With the exception of the College of New Orleans, there seems to have been no other public school in New

²⁵Claiborne to the Mayor of New Orleans, May 3, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 224; Session of May 29, 1811, Conseil De Ville: Proceedings of Council Meetings, No. 2, Book III (Typescript Copy. City Archives, New Orleans Public Library, New Orleans, Louisiana). Hereinafter cited as Conseil De Ville.

²⁶Session of March 17, 1810, Conseil De Ville, No. 2, Book II.

²⁷Courier de la Louisiane (New Orleans), June 5, 1811; Louisiana Gazette and New Orleans Daily Advertiser, August 27, 1811.

²⁸Memorial to Congress from the Regents of the University of Orleans, April 20, 1813, Carter (ed.), Orleans Territory, 1015. Alcée Fortier, Louisiana Studies: Literature, Customs and Dialects, History and Education (New Orleans: F. F. Hansell & Bro., 1894), 250 states the college opened in 1805, but presents no evidence to substantiate this date.

Orleans, and probably none in the territory, before 1811, when the legislature made the first appropriation for county schools.²⁹ Despite Governor Claiborne's persistent attempts to establish in Orleans an educational system adequate to the needs of the province and its people, little was accomplished in the territorial period. The education of the inhabitants was still principally dependent upon private academies or tutors, catering to the more affluent classes of society while neglecting the needs of the common people.³⁰

The first private school in New Orleans of which there is any evidence was an evening school conducted by Francis Bocquet. It opened in December, 1804, and offered instruction in French, English, and Spanish. Bouquet also sold books.³¹ The study of languages, as demonstrated by Bocquet's school, was one of the outstanding features of the private academies in the territory. The ethnic diversity of the people required that many citizens know more than one language. In 1808 James Hacket opened an English school, which stressed English pronunciation, reading, writing, and

²⁹Edwin Whitfield Fay, The History of Education in Louisiana (No. 20 of Contributions to American Educational History, Circular 1, Washington: United States Bureau of Education, 1898), 39.

³⁰The best source of information concerning these institutions was the newspapers, which, unfortunately, were all published in New Orleans. For this reason there is little evidence of educational facilities in other parts of the territory.

³¹Louisiana Gazette, December 7, 1804.

grammar, as well as bookkeeping, arithmetic, geography, geometry, and history.³² Hackett's institution illustrates another common characteristic of the private academies--a wide variety of course offerings, although one may doubt the preparation of the teachers in all these fields. Some of the private academies were opened to both sexes, others were for young men only, while a few admitted young ladies exclusively. The subjects offered depended upon the needs of the pupils attending.

In addition to day schools, boarding schools were established in New Orleans for the young people of the city and the neighboring countryside. Generally these establishments were maintained by a man and his wife, or perhaps by two men.³³ In December, 1808, for example, an anonymous married man announced that he was willing to undertake the teaching of twelve boarding pupils. He advertised a course of study consisting of French, Spanish, English, and Latin, and, if desired, arithmetic, geometry, algebra, geography, and painting. The cost was \$300 a year, and each student was expected to provide himself with a bed, a silver spoon and fork, and such school supplies as paper, books, quills, ink, and pencils.³⁴ Early the next year, a Mr. and Mrs.

³²Ibid., April 12, 1808.

³³Stuart Grayson Noble, "Schools of New Orleans During the First Quarter of the Nineteenth Century," The Louisiana Historical Quarterly, XIV (January, 1931), 67.

³⁴Courier de la Louisiane, January 6, 1809.

Charpentier opened a similar institution for girls only.³⁵

In 1811 McLenney and Nugent opened two schools in New Orleans. One was an evening school, and the other an academy with boarding accommodations for students from the country.³⁶

Some boarding institutions were established outside New Orleans, although they advertised for students in the city newspapers. In January, 1811, such a school was opened by a Mrs. Walsh for young ladies at Spring Grove, Bayou Sarah. In addition to the traditional academic subjects, Mrs. Walsh offered instruction on the piano or harp, singing, drawing, and painting on velvet or in water colors.³⁷ In May, 1811, John Brady, a parish priest at St. Mary's, and Matthew Flannery opened a combination day and boarding school in Baton Rouge. According to the organizers, this was the first educational institution in West Florida.³⁸

Education was also fostered by the establishment of a Library Society in New Orleans. In 1805 the Legislative Council incorporated a library society there under the name of "New Orleans Library Society."³⁹ Although there is not

³⁵Ibid.

³⁶Louisiana Gazette and New Orleans Daily Advertiser, May 16, 1811.

³⁷Ibid., January 1, 1811.

³⁸Ibid., May 2, 1811.

³⁹An act to incorporate a library society in the city of New Orleans, April 19, 1805, Acts Passed at the First Session of the Legislative Council of the Territory of Orleans, 322-34.

much evidence concerning the activities of the society, it did form a library in New Orleans on St. Peter's street. By 1809 it was open from nine until twelve o'clock in the morning and from five until 11 o'clock at night six days a week.⁴⁰ Since the library was the only one in the city, it may well have performed a vital function in the fast-developing urban center.

There were no medical schools in New Orleans. Doctors received their training in such institutions elsewhere and through apprenticeships under practicing physicians.⁴¹ By 1800 a number of American doctors had already established themselves in Louisiana, and after 1803 they became dominant politically and socially. John Watkins, William Flood, and Robert Dow, for example, held major political offices, as well as being leaders of their profession.⁴² To regulate the quality of medical men, the city council established a licensing law in 1804.⁴³ When it proved ineffective, the territorial legislature assumed the responsibility and in March, 1808, passed a bill providing for the licensing of practitioners as well as regulating other aspects of medicine. Once again, however, the law was meaningless,

⁴⁰Courier de la Louisiane, February 27, 1809.

⁴¹John Duffy, The Rudolph Matas History of Medicine in Louisiana (2 vols.; Baton Rouge: Louisiana State University Press, 1958-1962), I, 314.

⁴²Ibid., 269, 301-306.

⁴³Ibid., 326-30.

because it did not provide for means of enforcement.⁴⁴

Although lacking formal educational institutions for most of the territorial period, the people of Orleans enjoyed some cultural activities dating from the colonial period. The cultural center of the territory was, of course, New Orleans, where the Creoles dominated society. One of their favorite pastimes was the balls which were held frequently. Some of them were public, while others were private. The public balls were held twice weekly during the winter months and, since the admission fee was a nominal fifty cents, were well attended. Some were subscription affairs held to celebrate a local or national holiday, or perhaps to aid some unfortunate person. In 1805, for example, the city's residents celebrated Washington's birthday in February with a splendid ball, while the next month they honored Jefferson's inauguration to the Presidency with a similar affair. The price of the subscription to both affairs was \$3.00 which entitled a gentleman to two ladies' tickets. The fare at the latter event was cold cuts and liquors for the gentlemen, and coffee, chocolate, tea, and cake for the ladies.⁴⁵ That year the people also celebrated April 30, commemorating the Treaty of Paris, and December 20,

⁴⁴An act concerning Physicians, Surgeons, and Apothecaries, March 23, 1808, Acts Passed at the First Session of the Second Legislature of the Territory of Orleans, 24-30.

⁴⁵Louisiana Gazette, February 26, March 1, 1805.

marking the transfer of Louisiana to the United States.⁴⁶ Balls celebrating holidays were common in the city until 1810 when interest in them began to decline.⁴⁷ Other balls were given for charitable purposes, such as one of 1808 to benefit an unfortunate widow and her children;⁴⁸ however, most were held for no reason whatever except entertainment.

Evidence of the popularity of the balls is evident in the number of laws passed by the city council to regulate them. In 1806 the council forbade any masked ball under penalty of fine for both the sponsor and those attending. Previous to this decree, the council had allowed masked balls, public and private, with the written permission of the mayor.⁴⁹ Mayor John Watkins objected to the severity of the council's decree and suggested that masked balls be permitted once a week with increased police surveillance, but the council refused to modify its decree.⁵⁰ A few months later, the mayor himself complained of the impossibility of policing the numerous balls. The council then decreed that every person giving a ball, fireworks display,

⁴⁶Ibid., April 26, December 24, 1805; Moniteur de la Louisiane, December 25, 1805.

⁴⁷Louisiana Gazette and New Orleans Daily Advertiser, July 4, December 21, 1810.

⁴⁸Louisiana Gazette, March 25, 1808.

⁴⁹Moniteur de la Louisiane, supplement, February 4, 1806; extraordinary session of January 21, 1806, Conseil De Ville, No. 1, Book II.

⁵⁰Session of January 25, 1806, ibid.

or small show must have a permit from the mayor.⁵¹ By 1809 the public dance halls were so disorderly, because the men attended armed, that the council ordered its ball regulations posted on the doors of all dance halls.⁵² At the same time, it limited the number of racially mixed balls to one a day.⁵³

In addition to balls, public holidays were also celebrated by parades, fireworks, federal salutes from naval ships in port, High Masses sung at the Cathedral, and splendid dinners. On most of these festive occasions, the militia and regular troops played a conspicuous role by parading in the Place d'Armes and being reviewed by various dignitaries such as Governor Claiborne, Governor Robert Williams of Mississippi Territory, and General Wilkinson. On such occasions the citizenry turned out to watch the parades, while commercial and business activities halted.⁵⁴

Another favorite recreational activity of the Louisianians was gambling. The municipality attempted to regulate this pastime by ordering the enforcement of a previous ordinance concerning games of chance. The decree of May,

⁵¹Session of July 2, 1806, ibid., No. 1, Book III.

⁵²Session of January 14, 1809, ibid., No. 2, Book II.

⁵³Ibid.

⁵⁴Louisiana Gazette, April 30, 1803, December 24, 1805, February 25, July 8, December 23, 1806; Moniteur de la Louisiane, December 25, 1805, June 21, 15, 1806, December 21, 1811.

1803, controlled the admittance of persons to gambling houses and prohibited gambling with slaves under stiff penalties of fines and imprisonment. In 1809 the council reinforced its anti-gambling decree by requiring a \$5,000 bond of any person convicted of violating the original ordinance as surety of future compliance.⁵⁵ Outside New Orleans, the territorial legislature attempted to regulate gambling by an act providing a fine of \$20 for any innkeeper who "shall permit any person or persons to play any game of hazard or chance in his inn, or permit any quarreling, obscene language or fighting" without reporting it immediately to the appropriate judge or justice of the peace.⁵⁶ The act evidently was not comprehensive enough to control gambling in the territory as the legislature passed a second act in 1811. It provided a fine of \$100 to \$1,000 or imprisonment one to six months for any proprietor of a public place who allowed a hazard game to be played in his establishment.⁵⁷

The residents of New Orleans attended the theater enthusiastically during the territorial period. The first

⁵⁵Courier de la Louisiane, February 1, 1809.

⁵⁶An Act to regulate Inns and other Houses of Entertainment, May 21, 1806, Acts Passed at the First Session of the First Legislature of the Territory of Orleans, 34-44.

⁵⁷An Act Against Gambling Houses, April 8, 1811, Acts Passed at the Second Session of the Third Legislature of the Territory of Orleans, 60-62.

theater in New Orleans, later known as the Théâtre de la Rue Saint-Pierre, dated from 1792 when Louis-Alexandre Henry, a recent emigrant to Louisiana, built and managed a playhouse.⁵⁸ Although experiencing financial and managerial difficulties, the theater, with a few exceptions, stayed open during the Spanish period, but on December 12, 1803, the city council under Laussat closed it and condemned the building as unsafe. The following August, Jean-Baptiste Fournier petitioned the council to be named director of the theater. The municipality approved the request on the condition that necessary repairs be made to the building. Upon completion of the repairs, the council authorized the theater to reopen in November, 1804. It presented French opera and drama throughout the remaining territorial period.⁵⁹

In 1805 Louis-Blaise Tabary presented a prospectus for a new playhouse to the city council which rejected it. Presenting a second prospectus for the erection of a theater on Orleans street in May, 1806, Tabary received the council's approval, as well as that of Governor Claiborne, but he never completed it because of financial difficulties.

⁵⁸Rene J. LeGardeur, The First New Orleans Theatre, 1792-1803 (New Orleans: Leeward Books, 1963), 1-15. LeGardeur disagrees with the historians of the New Orleans theater who stated that a group of itinerant actors from Santo Domingo under the direction of Tabary established the first permanent theater in 1791. See John S. Kendall, The Golden Age of the New Orleans Theatre (Baton Rouge: Louisiana State University Press, 1952), 2.

⁵⁹LeGardeur, The First New Orleans Theatre, 38-39.

In 1808 a second theater opened on St. Phillipe street, and in 1809 John Davis, a gambler, finished and opened the Orleans street playhouse. Both theaters were dedicated to French opera and drama.⁶⁰

In 1806 there was an abortive attempt to introduce English drama into the city. That year an itinerant actor by the name of Rannie performed the first English-language drama, The Doctor's Courtship, and excerpts from Don Juan in a tavern on Chartres street. By 1811 a theatrical company, the American Company, under the direction of William Duff, was performing English-language plays in the St. Phillipe Street theater, but apparently the company disbanded within a few months.⁶¹

Besides education and cultural activities, religion engaged much of the time and energy of the territorial authorities in the early years. Having been previously a French and Spanish colony, the territory was naturally a stronghold of Roman Catholicism. As in every other field, the sudden transfer of Louisiana to France and then to the United States had profound repercussions on the religious stability of the

⁶⁰Ibid., 40-41; Moniteur de la Louisiane, May 24, 1806; Alc   Fortier, Louisiana: Comprising Sketches of Counties, Towns, Events, Institutions, and Persons, Arranged in Cyclopedic Form (3 vols.; Atlanta: Southern Historical Association, 1909), 223; Edwin A. Davis, Louisiana: A Narrative History (2nd ed.; Baton Rouge: Claiborne's Book Store, 1965), 175.

⁶¹Kendall, The Golden Age, 3-4.

province. Left without ecclesiastical control, the Roman Catholic priests engaged in disputes that threatened peace and order in the territory. Rebellion against ecclesiastical authority which became characteristic of the priests and their flocks in Orleans developed to such proportions that it involved the territorial governor as preserver of law and order. He found separation of church and state extremely difficult to achieve.

The religious disputes originated in the absence of a resident bishop in Louisiana during the late Spanish colonial, the French interim, and the American territorial periods. In 1800 the Most Reverend Luis de Peñalver y Cardenas, Bishop of Louisiana, received an appointment to the archbishopric of Guatemala. Upon his departure, the see of Louisiana became vacant, and its administration passed to the chapter of canons according to church law. At this time, the Chapter of the Cathedral consisted of only two canons-- Fathers Thomas Hassett and Francisco Perez Guerrero. Before leaving Louisiana, Bishop Peñalver appointed Father Hassett vicar-general to provide a temporary administrator until a new bishop could be named.⁶² The Spanish government never sent another bishop to Louisiana because of the expected transfer of the colony to France. Meanwhile, there arose a

⁶²Roger Baudier, The Catholic Church in Louisiana (New Orleans: Hyatt, 1939), 249-50; Stanley Faye (ed.), "The Schism of 1805 in New Orleans," The Louisiana Historical Quarterly, XXII (January, 1939), 101-102.

second contender for administrator of the diocese in the person of Father Patrick Walsh. Father Walsh claimed that he had been appointed vicar-general of Louisiana by Bishop Peñalver before the latter's departure. There was no foundation for Father Walsh's claim, but he notified the Marquis de Casa Calvo that he was spiritual head of the Roman Catholics in Louisiana and actually assumed control of ecclesiastical affairs.⁶³ This contention for authority would have been injurious to the Roman Catholic Church at any time, but particularly during the transfer of the colony to France and then to the United States. Due to the laxness of the Spanish Capuchins, religion was already at a low ebb,⁶⁴ but it would slip even lower after the assumption of American control.

When Governor Claiborne received the formal transfer of the colony on December 20, 1803, he delivered a speech in which he promised the Louisianians that "They shall be maintained and protected in the free enjoyment of their Liberty,

⁶³Father Walsh, an Irish priest educated at the Spanish college of Salamanca, came to Louisiana in 1762. Stationed in New Orleans, he became ecclesiastical judge, chaplain of Charity Hospital, and the chaplain of the Ursuline Convent. Faye (ed.), "The Schism of 1805," L.H.Q., XXII, 99; Baudier, Catholic Church in Louisiana, 250. Both of these authors state that there was no foundation for Walsh's assumption of administrative control of the diocese.

⁶⁴Baudier, Catholic Church in Louisiana, 249-50.

Property, and Religion which they profess."⁶⁵ In April, 1804, Claiborne wrote to Julien Poydras, commandant of Pointe Coupée¹, reassuring him that the inhabitants of Louisiana would be allowed to worship as they pleased.⁶⁶ A month later, he repeated this promise to Henry Hopkins, commandant of Atakapas and Opelousas.⁶⁷

Despite these assurances the inhabitants of the territory were fearful that the new government would meddle in their religious institutions and practices and, in fact, it seemed to be doing so, particularly in Atakapas County. A dispute began there when Pierre Clement Laussat, French colonial prefect, removed Father Miguel Barriere from the pastorate of the Church of St. Martin in Atakapas and replaced him with Father Etienne Bernard Alexandre Viel. Father Patrick Walsh, as pretended vicar-general, denounced this civil meddling in ecclesiastical affairs, and ordered Father Barriere back to his post. The congregation was divided into the supporters of Father Barriere and those of Father Viel. One Sunday the conflict came to a head when both priests, each accompanied by a large number of his partisans, appeared to take possession of the church.

⁶⁵Proclamation issued on the surrender of Louisiana, December 20, 1803, Rowland (ed.), Claiborne's Letterbooks, I, 308.

⁶⁶Claiborne to Julien Poydras, April 6, 1804, ibid., II, 83-84.

⁶⁷Claiborne to Hopkins, May 29, 1804, ibid., 169-70.

Fearing civil disorder, Commandant Hopkins locked the doors of the building until he could report the situation to Governor Claiborne and receive his instructions.⁶⁸ Claiborne approved of the commandant's action⁶⁹ and submitted the dispute to Father Walsh, whom he considered to be head of the Catholic Church in Louisiana, and sent a summary of the incident to the Secretary of State.⁷⁰

Upon learning of the dispute, Madison communicated with President Jefferson, who disapproved the actions of Hopkins and Claiborne. In Jefferson's opinion they constituted an attempt by the state authorities to enforce church discipline, which was a purely voluntary action. The President stated that the priests involved should settle their own differences, through the courts if necessary, with interference from civil authorities only in the case of a breach of the peace. In the latter event, civil action should be the arrest of the violator.⁷¹ The Secretary of State communicated the President's opinion to Claiborne,⁷²

⁶⁸Claiborne to Madison, May 29, 1804, ibid., 170-71; Baudier, Catholic Church in Louisiana, 250-51.

⁶⁹Claiborne to Hopkins, May 29, 1804, James A. Robertson (ed.), Louisiana Under the Rule of Spain, France, and the United States, 1785-1807 (2 vols.; Cleveland: The Arthur H. Clark Company, 1911), II, 266.

⁷⁰Claiborne to Madison, May 29, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 170-71.

⁷¹President to the Secretary of State, July 5, 1804, Carter (ed.), Orleans Territory, 259.

⁷²Secretary of State to Claiborne, July 10, 1804, ibid., 260.

but he either did not receive the letter or disregarded it. In July, 1804, Claiborne directed Commandant Hopkins to turn the keys of St. Martin's over to the priest named by Father Walsh, who was naturally Father Barriere.⁷³ Thus ended the first conflict within the clerical ranks of the Roman Catholic Church in Louisiana, but the Atakapas incident proved to be only a portent of further disorder to come.

The Roman Catholic Church in Louisiana during the early American period would have been in a precarious position even without quarrels between ecclesiastical authorities like that in Atakapas. Its basic weakness was a scarcity of priests. When the Spanish civil and military personnel began leaving after the transfer of the province, many of the Spanish clergy accompanied them. A few days after the United States took possession, Father Hassett reported to Bishop John Carroll of Baltimore, who was expected to take charge of the diocese, that there were twenty-six priests in Louisiana, but only four expressed an intention of staying. Actually sixteen remained, but there were twenty-one parishes in the diocese. At the beginning of the American regime therefore, almost half of the parishes had no priests.⁷⁴ The Church experienced further injury in 1804 when the two canons, Fathers Hassett and Guerrero,

⁷³Claiborne to Hopkins, July 28, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 274-75.

⁷⁴Baudier, Catholic Church in Louisiana, 252-53.

died, leaving the institution with no spiritual head except the pretended vicar-general Father Walsh.⁷⁵ At a time when wisdom, moderation, and firmness were needed in the leadership of the Church, jealousy, pettiness, and uncertainty characterized the administration of Father Walsh.

By March, 1805, a special crisis developed within the ranks of the clergy in Louisiana. A dispute involving the pastorate of the St. Louis Cathedral in New Orleans arose between Father Walsh and Fray Antonio de Sedella, a Spanish Capuchin, better known to the people of the city as Pere Antoine.⁷⁶ It originated in the jealousy and lack of co-operation which existed between Pere Antoine, pastor of the cathedral, and his two Walsh-appointed assistants, Fathers Pierre-Francois l'Epinasse and Jean-Pierre Kouni. When his assistants publicly and abusively scolded him at the altar of the Cathedral, Pere Antoine immediately offered his resignation to Father Walsh, and notified the Marquis de Casa Calvo, the Spanish commissioner, of his action and the reasons for it. The Spanish Capuchin's resignation was promptly accepted by the Vicar-general who was glad to rid himself of the troublesome priest. Thereupon Father Walsh

⁷⁵Ibid., 254.

⁷⁶Pere Antoine arrived in New Orleans in 1780 as a member of a Capuchin mission sent to Louisiana. By 1789 he was vicar-general in the absence of the bishop. He attempted to introduce the Inquisition to Louisiana whereupon Governor Estevan Miro expelled him. He later returned to New Orleans under Bishop Peñalver. Faye (ed.), "The Schism of 1805," L.H.Q., XXII, 99-100.

appointed himself pastor of St. Louis.⁷⁷ Following this incident both priests charged each other with conduct unbecoming a Catholic cleric. Pere Antoine refused an assistantship at the cathedral, claiming that the assistants there, with the support of Walsh, were publicly slandering him. The Vicar-general counterclaimed that Pere Antoine was improperly appealing to the people of New Orleans in an attempt to arouse them against himself as their new pastor. Father Walsh suspended the rebellious priest, ordering him to return all church property in his care.⁷⁸

At this juncture, Pere Antoine, who was a pensioner of the King of Spain, appealed to the Marquis de Casa Calvo for protection and assistance. The Marquis, anxious to foster the interest of his sovereign whenever possible, stood solidly behind Pere Antoine and demanded to know whether the Vicar-general acted under the authority of Spain or that of the United States.⁷⁹ Casa Calvo's meddling angered Father Walsh, who refused to answer the question and denounced the Spanish Commissioner stating that he had no

⁷⁷Baudier, Catholic Church in Louisiana, 255; Walsh to Fray Antonio, March 6, 1805 quoted in Faye (ed.), "The Schism of 1805," L.H.Q., XXII, 118-19; Fray Antonio to Walsh, March 5, 1805, quoted in ibid., 118; Casa Calvo to Don Jose Antonio Caballero, March 30, 1805, quoted in ibid., 105-106.

⁷⁸Baudier, Catholic Church in Louisiana, 255.

⁷⁹Casa Calvo to Father Walsh, March 9, 1805 quoted in Faye (ed.), "The Schism of 1805," L.H.Q., XXII, 121; Casa Calvo to Father Walsh, March 12, 1805, quoted in ibid., 123-24.

right to interfere in Church matters. The Marquis advised Pere Antoine to restrain himself temporarily, but not to transfer the church property without the authorization of the city and himself.⁸⁰

By this time the entire city was in an uproar, for Pere Antoine was very popular with the inhabitants. On March 14, 1805, a public notice appeared in the Moniteur de la Louisiane inviting them to a mass meeting in St. Louis Cathedral to elect a new pastor.⁸¹ This was a flagrant violation of church law and custom, so Father Walsh appealed to the mayor and aldermen to prevent the assemblage. They refused to interfere, since the affair was outside of their jurisdiction unless the public peace was violated.⁸² The unauthorized meeting took place as planned, and the congregation of St. Louis Cathedral recalled Pere Antoine to duty, and elected a board of wardens, better known as the "Marguilliers," to administer the revenues of the church.⁸³

⁸⁰Baudier, Catholic Church in Louisiana, 255-56; Fray Antonio to Casa Calvo, March 8, 1805, quoted in Faye (ed.), "The Schism of 1805," L.H.Q., XXII, 117; Casa Calvo to Fray Antonio, March 12, 1805, quoted in ibid., 125; Casa Calvo to Caballero, March 30, 1805, quoted in ibid., 106-107.

⁸¹Baudier, Catholic Church in Louisiana, 256.

⁸²Session of March 14, 1805, Conseil De Ville, No. 1, Book II.

⁸³The members of the original board of wardens were Paul Lanusse, Jean Castanedo, John Baptist Labatut, John Baptiste Durel, and Charles Poree. Baudier, Catholic Church in Louisiana, 256-58; Casa Calvo to Caballero, March 30, 1805, quoted in Faye (ed.), "The Schism of 1805," L.H.Q., 107-108, 110.

Governor Claiborne reported the meeting to the Secretary of State but dismissed it lightly stating, "it is probable the affair will not eventuate in any unpleasant consequences!"⁸⁴ Shortly thereafter, however, the Governor received notification from the civil commandant of St. Bernard that the idea of appealing to the people in church disputes had spread to that district. A priest, removed from his post by Vicar-general Walsh, had assaulted his successor on the church steps and then suggested that his case be submitted to the people rather than to a court of law. The commandant expressing fear that a serious riot might erupt, appealed to Governor Claiborne who called upon Judge John Prevost to issue a warrant against the priest for a breach of the peace. Claiborne took this opportunity to warn the mayor and other influential men in New Orleans that the United States government would not interfere in religious strife unless the public peace was threatened, but when it was, civil action would be swift and severe.⁸⁵

The rebellion in New Orleans, however, did not subside. Father Walsh replied to the unprecedented popular election of Pere Antoine as pastor of the Cathedral with a

⁸⁴Claiborne to the Secretary of State, March 18, 1805, Carter (ed.), Orleans Territory, 421.

⁸⁵Claiborne to Madison, March 24, 1805, Robertson (ed.), Louisiana Under the Rule, II, 283-84; Claiborne to Prevost, March 23, 1805, Carter (ed.), Orleans Territory, 423.

pastoral letter of March 27, 1805, warning the Catholics of the city that any priest elected by the laity was not a minister of the Church, and therefore could not administer the sacraments validly. He also interdicted the Cathedral and made the chapel of the Ursuline Convent the parish church of the city.⁸⁶ The city council tried to prevent the publication of this letter fearing that it would further divide the people, but the printer, James Bradford, published it anyway.⁸⁷ Despite the opposition of the Vicar-general, Pere Antoine continued to officiate at the Cathedral, and the Marguilliers and the Marquis de Casa Calvo confirmed his pastorate. Father Walsh went before the Superior Court of the territory to sue for possession of the church, but the Court decided against him by recognizing Father Antoine its pastor and the Board of Wardens its legal administrators.⁸⁸

In desperation, the Vicar-general finally appealed to Governor Claiborne for assistance in recovering possession of the Cathedral by notifying him that a foreign agent, whom he neglected to name, was responsible for the whole situation.

⁸⁶Baudier, Catholic Church in Louisiana, 257.

⁸⁷Claiborne to Madison, March 31, 1805, Territorial Papers: Orleans Series, 1794-1813 (General Records of the Department of State. File Microcopies of Records in the National Archives: No. T-260. Microfilm in the New Orleans Public Library, New Orleans, Louisiana), VI; Session of March 29, 1805, Conseil De Ville, No. 1, Book I.

⁸⁸Baudier, Catholic Church in Louisiana, 258; Biographical and Historical Memoirs of Louisiana . . . (2 vols.; Chicago: The Goodspeed Publishing Company, 1892), II, 132.

The Governor was convinced that the foreigner alluded to was the Marquis de Casa Calvo, but he positively refused to interfere.⁸⁹ However, believing the priest an active supporter of Spain, he ordered Pere Antoine put under surveillance, and even considered expelling him from Louisiana, as Governor Miro had done at an earlier date. Finally the Governor called the priest before him and charged him with acting in the interest of Spain. Pere Antoine denied the accusation, but the Governor required him to take an oath of allegiance to the United States and continued to have him watched.⁹⁰

Meanwhile, in August, 1806, Father Walsh died,⁹¹ leaving the Diocese of Louisiana without a resident spiritual head. On September 1, 1805, Pope Pius VII had placed the diocese temporarily under the supervision of Bishop Carroll of Baltimore.⁹² After Father Walsh's death, Bishop Carroll sought the advice of Secretary of State Madison in naming a bishop. Madison declined becoming involved beyond agreeing with the Bishop's unfavorable opinion of Pere Antoine. After

⁸⁹Walsh to Claiborne, July 11, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 121-22; Claiborne to Madison, July 12, 1805, ibid., 120; Claiborne to Walsh, July 12, 1805, ibid., 122-23.

⁹⁰Claiborne to Henry Dearborn, October 10, 1806, ibid., IV, 28.

⁹¹Moniteur de la Louisiane, August 27, 1806.

⁹²Biographical and Historical Memoirs, II, 131; Baudier, Catholic Church in Louisiana, 260.

an unsuccessful search for a person to fill the vacancy, in December, 1806, Bishop Carroll named Father Jean Olivier, chaplain of the Ursulines, vicar-general of the diocese. The Bishop required that every priest in the see recognize his authority and that of Father Olivier as vicar-general.⁹³

The appointment of Father Olivier should have restored discipline and order to the Church, but it did not. Pere Antoine and his rebellious supporters refused to recognize the new superior. The Marguilliers of St. Louis Cathedral decided that it was their responsibility to name a bishop for Louisiana, just as they had appointed the pastor of St. Louis earlier. Naturally their choice was Pere Antoine. To provide a legal basis for their action, the Marguilliers, headed by Castillon, their president, decided to appeal to Napoleon, who had brought the Church in France under his control, to name the bishop.⁹⁴ Nothing came of this fantastic effort to have a Spanish Capuchin appointed by the Emperor of the French to a diocese in the United States. However, Father Antoine, bolstered by this show of support, together with a few other priests, continued to deny the authority of Father Olivier. In February, 1807, therefore, the new Vicar-general published in the Moniteur de la

⁹³Baudier, Catholic Church in Louisiana, 260.

⁹⁴Secretary of State to Claiborne, November 12, 1806, Carter (ed.), Orleans Territory, 686; Claiborne to Castillon, December 29, 1806, Rowland (ed.), Claiborne's Letterbooks, IV, 72; Baudier, Catholic Church in Louisiana, 260-61.

Louisiane an announcement of his appointment and of Pere Antoine's refusal to recognize it, and a notice to the Catholics of the city that the Ursulines' chapel would continue to be the parish church. He also notified Pere Antoine that he was relieved of the pastorate of the Cathedral.⁹⁵ The Marguilliers immediately came to the defense of their favorite by attacking Father Olivier in several of the city's newspapers for his "imperious order" and rejecting his authority.⁹⁶ Under these conditions, Father Olivier was unable to pacify the obstinate Catholics in the city.

Having been kept informed of these developments by Bishop Carroll, in April, 1808, Pope Pius VII authorized the Bishop to appoint an administrator apostolic for Louisiana until more permanent arrangements could be made. After a long search in 1810, Bishop Carroll appointed Father Sibaud, a French secular priest, vicar-general of the diocese, rather than administrator apostolic. Under this arrangement, Father Sibaud would be the bishop's deputy in Louisiana rather than the representative of the Holy See there. Father Sibaud arrived at his post in December, and by tact and

⁹⁵Notice to the Roman Catholics in the City of New Orleans, February 18, 1807, Translations of Documents in Spanish and French Relating to Padre Antonio De Sedella and his Ecclesiastical Differences with Vicar-General Patrick Walsh of the Saint Louis Cathedral in New Orleans, 1791-1807 (Survey of Federal Archives in Louisiana, 1937-1938), 4.

⁹⁶Ibid., 4-8.

diplomacy helped to heal the disaffection of the laity. He remained as head of the diocese until 1812, when Bishop Carroll finally named the Reverend William Dubourg administrator apostolic.⁹⁷

While the Catholic church was experiencing so much trouble, the first Protestant church in the territory was organized. The Protestant movement began April 30, 1805, when John Watson, a resident of New Orleans for nearly a year, anonymously published an article in the Louisiana Gazette deploring the neglect of public worship among English-speaking people in the city and suggesting that they join together to form a single Protestant church.⁹⁸ The English-speaking residents enthusiastically responded to Watson's suggestion, and on April 28, 1805, a second notice appeared in the Gazette inviting all interested persons to a meeting at Francisque's Ballroom for the purpose of establishing an English-language church. The meeting held on May 30 resulted in the adoption of resolutions calling for immediate steps to organize a Protestant church, to encourage a Protestant clergyman to take up residence in the city, and to hold another meeting to foster these plans.⁹⁹ Gathering

⁹⁷Baudier, Catholic Church in Louisiana, 263.

⁹⁸Georgia Fairbanks Taylor, "The Early History of the Episcopal Church in New Orleans, 1805-1840," The Louisiana Historical Quarterly, XXII (April, 1939), 431.

⁹⁹Louisiana Gazette, May 31, 1805.

again on June 2, the participants resolved to obtain a Protestant clergyman as soon as possible and established several committees--one to receive subscriptions of money for a new church, another to obtain a lot for a church building, a third to correspond with various college presidents and bishops seeking recommendations of a suitable clergyman, and a fourth to find a temporary place of worship and to draft a petition seeking incorporation from the Legislative Council.¹⁰⁰ One week later, the subscription committee reported to the organizers that \$2,275 had been raised, a sum which would permit the congregation to pay a clergyman a minimum annual salary of \$2,000.¹⁰¹ At a meeting on June 16, the subscribers took up the question of determining the denomination from which a minister would be invited. Upon balloting, the vote was forty-five for an Episcopalian, seven for a Presbyterian, and one for a Methodist. The main reason for affiliating with the Protestant Episcopal Church was the similarity between the Episcopal and Roman Catholic churches which would tend to eliminate criticism of the new establishment by Catholic residents of the city. They agreed to call the new church Christ's Church.¹⁰²

¹⁰⁰Hodding Carter and Betty Werlein Carter, So Great A Good: A History of the Episcopal Church in Louisiana (Sewanee: The University Press, 1955), 7; Louisiana Gazette, June 4, 1805.

¹⁰¹Louisiana Gazette, June 11, 1805.

¹⁰²Ibid., June 14, 18, 1805; Carter and Carter, So Great A Good, 7.

Early in July, the Legislative Council passed an act of incorporation for the congregation of the Protestant Episcopal Church in the County of Orleans. It created a corporate body under the name of "The church-wardens and vestry-men of Christ's Church" consisting of persons named in the act and other free white persons twenty-one years of age or older who contributed at least \$10 annually to the support of the church. The funds of the corporation were limited to \$20,000 annually, but otherwise the act extended the usual legal rights and privileges to the corporation. It established a fifteen-man annually elected vestry with power to appoint the minister and choose yearly the two church wardens and a treasurer.¹⁰³

Shortly after receiving the act of incorporation, the committee previously appointed to engage a minister for the new congregation wrote Bishop Benjamin Moore of New York requesting him to find a minister for them. Bishop Moore recognized in the request an opportunity to extend the Episcopal Church and recommended the position to Philander Chase, a young priest at Poughkeepsie, New York, who had been converted from Congregationalism while attending Dartmouth

¹⁰³An Act for Incorporating a Congregation of the Protestant Episcopal Church in the county of Orleans, and for other purposes herein mentioned, June 3, 1805, Acts Passed at the Second Session of the Legislative Council of the Territory of Orleans. . . (New Orleans: James M. Bradford, 1805), 88-94.

College.¹⁰⁴ Chase immediately accepted the offer, leaving New York in October, 1805. On November 13, he arrived in New Orleans and three days later met his congregation for the first time. On Sunday, November 17, he officiated at the first service of Christ's Church, held in an upstairs room of the Principal.¹⁰⁵ Chase seemed well pleased with the call except for two conditions. One was that the vestry asked him to be rector of the New Orleans Protestant Church, not an Episcopal church, and secondly, the call was limited to the following May since a salary was provided only until that time. Chase demanded that the vestry drop these objectionable conditions, and it acceded to his demands. Then, in December, 1805, Father Chase accepted officially the call of the New Orleans congregation.¹⁰⁶ Later, in accordance with Chase's wishes, the church's charter was amended by legislative enactment to assure its future as a part of the Anglican system by authorizing it to be placed under the direction of the Diocese of New York.¹⁰⁷

¹⁰⁴Taylor, "The Early History of the Episcopal Church," L.H.Q., XXII, 436-37; Raymond W. Albright, A History of the Protestant Episcopal Church (New York: The Macmillan Company, 1964), 198-99.

¹⁰⁵Taylor, "The Early History of the Episcopal Church," L.H.Q., XXII, 438.

¹⁰⁶Ibid., 440-41.

¹⁰⁷An Act to amend the act, entitled "An Act for incorporating a Congregation of the Protestant Episcopal Church in the county of Orleans, and for other purposes herein mentioned," May 2, 1806, Acts Passed at the First Session of the First Legislature of the Territory of Orleans, 12-16.

In the spring of 1806, Father Chase returned to New England to get his wife who, because of ill health, had not accompanied him on his first trip to New Orleans. The couple arrived back in the city in November, 1806, and for the next six years Father Chase ministered to the faithful of New Orleans and operated a school for its youth. During this time several temporary rooms provided a place of worship, but despite Father Chase's endeavors, no permanent church was erected because of a lack of funds. To obtain financial aid, Father Chase urged his congregation to petition the Bishop of New York for ecclesiastical union with his diocese, but the request was refused.¹⁰⁸ The vestry likewise tried various means of obtaining funds, including subscriptions, Sunday offerings, and a lottery, but none was adequate to the needs of the church. The lottery was so unsuccessful that it put the church further into debt. By July, 1808, the vestry could not even pay the rector his full salary. Father Chase requested it several times and, when it was not forthcoming, resigned his position in 1811 to return to New England. Christ's Church then entered a period of decline, almost becoming extinct, until

¹⁰⁸Taylor, "The Early History of the Episcopal Church," L.H.Q., XXII, 443-44; Carter and Carter, So Great A Good, 13; John Smith Kendall, History of New Orleans (3 vols.; New York: The Lewis Publishing Company, 1922), I, 77-78.

1814 when a revival began.¹⁰⁹

Although the Episcopalians were the only Protestant sect to establish an organized congregation in the Territory of Orleans, they were not the first Protestants to preach in it. As early as November, 1804, Lorenzo Dow, a Methodist revivalist, crossed the Mississippi River at Natchez to preach to some English-speaking settlers.¹¹⁰ Shortly after the arrival of Father Chase in November, 1805, Elisha Bowman, a Methodist missionary from Kentucky reached New Orleans. Bishop Francis Asbury sent Bowman to Louisiana, which formed a part of the newly created Methodist Fourth Circuit of the Mississippi Valley, with instructions to begin missionary work in New Orleans. Upon arriving in the city, Bowman was disappointed at finding so few Americans and a majority of them "beasts of men." He was also upset over the Louisianians' neglect to properly observe the Sabbath. He found that "The Lord's-day is the day of general rant in this city; public balls are held, merchandise of every kind is carried on, public sales, wagons running, and drums beating; and thus is the Sabbath spent."¹¹¹

¹⁰⁹Carter and Carter, So Great A Good, 13-14; Taylor, "The Early History of the Episcopal Church," L.H.Q., XXII, 445-46.

¹¹⁰Carter and Carter, So Great A Good, 6; Taylor, "The Early History of the Episcopal Church," L.H.Q., XXII, 431.

¹¹¹Holland N. McTyeire, A History of Methodism . . . to A.D. 1884 (Nashville: Southern Methodist Publishing House, 1885), 549-50.

Despite his unfavorable impression of New Orleans, Bowman, determined to follow his bishop's instructions, applied to Governor Claiborne for permission to preach in the capital building. The Governor immediately consented to the missionary's request, but when Bowman arrived at the capital on the next Sunday, he found the doors had been locked by some jealous Episcopalians. The following two Sundays he encountered the same obstacle, and each time he preached to some sailors and Frenchmen in the street.¹¹²

Thoroughly disillusioned, Bowman gave up his work in New Orleans. On December 17, 1805, he "shook the dirt from [his] feet against this ungodly city of Orleans," and set out for Opelousas where he had learned there was an American settlement. During 1806 Bowman traveled through the settlements of Opelousas decrying the laxness and immorality of the Catholics, but finding many people in the isolated regions who had never heard the Word of God. From Opelousas, he traveled to the Red River settlements and then swung eastwardly to Catahoula, opposite Natchez, Mississippi. The next year Bowman was appointed to minister to the spiritual needs of the people of Ouachita.¹¹³

Thomas N. Lasley replaced Bowman in the Opelousas and

¹¹²John K. Bettersworth, "Protestant Beginnings in New Orleans," The Louisiana Historical Quarterly, XXI (July, 1938), 824-25; Taylor, "The Early History of the Episcopal Church," L.H.Q., XXII, 430-31.

¹¹³McTyeire, A History of Methodism, 550-52.

Red River areas. Lasley followed a regular circuit from Opelousas to the Red River settlements to Catahoula and back to Opelousas--a distance of over 300 miles. The interior settlements continued to be the real missionary field for the Methodists, although in 1811 Miles Harper was appointed the first regular pastor in the city of New Orleans.¹¹⁴

¹¹⁴Ibid., 552-54; Jolly B. Harper, "Methodism in New Orleans," (unpublished paper in possession of the author, Natchitoches, Louisiana).

CHAPTER XI

THE TERRITORIAL MILITIA

One of the most difficult tasks of a territorial government was the establishment of an effective militia force to deal with threats of internal disorder and external aggression. The problem in Orleans Territory was especially difficult and pressing because a large part of the population was made up of foreigners of doubtful loyalty, and the territory was bordered on both the east and west by alien lands. Adding to the difficulty of the situation was the fact that in this period the United States became involved in a dispute with Spain over the location of the boundary between Texas and Louisiana which for a time threatened to produce hostilities, and then was threatened by the prospect of war with England, or perhaps even France, over violations of American neutral rights on the high seas. In the event of such a war breaking out (as it finally did), the coast of Orleans Territory would have been open to enemy attack.

The Territory of Orleans, like any other American territory, depended upon the local militia and the regular army for its defense. Of the two, the militia, at least by design, formed the surest part of the defensive system for

several reasons. First the local men, already on the scene, were supposedly ready to serve at a moment's notice. Secondly, they would be more interested in protecting their own homes and families from attack than strangers assigned temporarily to the area. Thirdly, the militia at all times outnumbered the regular troops in the territory. Despite the intention of utilizing the territorial militia as the bulwark of defense, conditions peculiar to the area hindered its effective operation. The militia was never efficiently organized, properly officered, or adequately equipped. Great distances between scattered settlements prevented effective employment of the men, and linguistic diversity hampered military operations. Although called out often, the militia never played a major role in defending the territory except during the slave uprising of 1811.

From December, 1803, to October, 1804, as was discussed in Chapter IV, no organization of the regular militia was effected. The Governor lacked adequate information on the needs and conditions of the province and was busy with a multiplicity of other duties and problems. Instead, he chose to rely for the maintenance of internal order and defense against external attacks on the volunteer units, such as the Battalion of Orleans Volunteers and the Battalion of Free People of Color. Gradually during the summer of 1804, Claiborne took steps to establish the regular city militia of New Orleans and the outlying regions, but little was

accomplished by October 1, when the first territorial government assumed office.

The Governor's inactivity caused much resentment among the native Louisianians, as was revealed by the attacks on him which appeared in the local newspapers. He was charged with favoring the volunteer units, especially the Battalion of Free People of Color, over the militia.¹ The Governor defended his unpopular actions on the grounds of expediency and necessity and promised to organize the militia as soon as the Legislative Council convened.² In opening the Council, Claiborne recommended that it provide for the organization of the militia,³ and the Council agreed to "devise such measures as will best tend to keep our fellow citizens, armed and disciplined, for the protection of our laws and our government, and for the preservation of the blessings we enjoy under them."⁴

The first measure of the Council concerning the militia was an act recognizing the Battalion of Orleans Volunteers as a part of the regular militia. The law also provided for the

¹Claiborne to James Madison, January 26, 1805, Clarence E. Carter (ed.), Orleans Territory, 1803-1812 (Volume IX of Territorial Papers of the United States, Washington: Government Printing Office, 1940), 380.

²Ibid., 381.

³Claiborne's Speech to the Legislative Council, Louisiana Gazette (New Orleans), December 14, 1804.

⁴Louisiana Gazette, December 14, 1804.

establishment of a volunteer troop of horse to be attached to the volunteer battation.⁵ Two months later, the Council authorized the governor to recognize as a volunteer company any group of thirty-five or more white male citizens who were willing to equip and uniform themselves. Such a company's maximum strength was to be sixty privates, and the governor was to commission its officers.⁶

After having adopted this special measure, then, on April 10, 1805, the Council approved a basic militia law which stood with little change until 1811. It directed the enrollment of "each and every free able bodied white male citizen" between the ages of sixteen and fifty in an appropriate militia company. Exempted were members and officers of the Legislative Council, the territorial secretary, judges, and officers of law courts, the attorney general, mayor and recorder of New Orleans, treasurers of the city and territory, sheriffs, deputy sheriffs, gaolers, postmasters and stage drivers conveying the mail, ferrymen employed on post roads, pilots and mariners employed at sea in the service of a United States citizen, ministers, school teachers, physicians, surgeons, apothecaries, and secretaries

⁵An Act Recognizing the Battalion of Orleans Volunteers and providing for a troop of Horse, January 23, 1805, Acts Passed at the First Session of the Legislative Council of the Territory of Orleans . . . (New Orleans: James M. Bradford, 1805), 26-28.

⁶An Act concerning volunteer companies of Militia, March 29, 1805, ibid., 120.

of foreign consuls. The militia was organized into brigades of from two to six regiments each, with each regiment consisting of two battalions, and each battalion of four companies. Each regiment was to have at least one company of grenadiers, light infantry, or artillery attached to it, and each brigade was to have one troop of horse. A company was composed of from forty to sixty-four privates as local conditions should determine. The volunteer corps was excluded from the organized militia.⁷

The first militia act partitioned the territory into three divisions as follows: the area from the parish of Cabahanoce to the Balize including New Orleans; the districts or parishes of Lafourche, Galveston, Iberville, Manchac, Baton Rouge, and Pointe Coupée; and the districts of Avoyelles, Rapides, Natchitoches, Ouachita, and Concordia. The governor was empowered to separate any of the divisions into two or more brigades when the militia exceeded 2,000, and to alter the division boundaries at his discretion.⁸ Under this authority, in June, 1806, Claiborne adjusted the divisions in accordance with the reorganization of the territory into counties which occurred at that time.⁹

⁷An Act for regulating and governing the militia of the Territory of Orleans, April 10, 1805, ibid., 262-302.

⁸Ibid., 268.

⁹Proclamation, August 23, 1805, Carter (ed.), Orleans Territory, 585-86; Louisiana Gazette, August 30, 1805; An Act to alter the division boundaries prescribed in the act

In addition to dividing up the territory into districts, the act of 1805 set up the militia's table of organization. The governor was to be commander-in-chief and was to be assisted by a staff of four aides-de-camp. Under him was the adjutant general, whose principal duties were distributing orders, attending all public reviews, inspecting the militia annually, and collecting data on the several units to make general returns to the governor. The law further stipulated the officers and service personnel of each militia unit from brigade to company.¹⁰

entitled "An Act for regulating and governing the Militia of the Territory of Orleans," June 7, 1806, Acts Passed at the First Session of the First Legislature of the Territory of Orleans . . . (New Orleans: Bradford and Anderson, 1807), 146-48. The three districts were as follows: 1st district composed of the city of New Orleans and counties of Orleans and German Coast; 2nd district formed by the counties of Acadia, Lafourche, Iberville, Atakapas, and Opelousas; and the third district composed of the counties of Pointe Coupée, Concordia, Rapides, Natchitoches, and Ouachita.

¹⁰An Act for regulating and governing the militia of the Territory of Orleans, Acts Passed at the First Session of the Legislative Council, 268-70. The other officers provided by the act were: one brigadier general assisted by two aides-de-camp; one major for each battalion; one captain, two lieutenants, four sergeants, four corporals, one drummer and one fifer for each company of infantry; one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, one trumpeter, and forty privates for each troop of horse; one captain, two lieutenants, four sergeants, four corporals, one drummer and one fifer for each company of artillery; and a regimental staff consisting of one adjutant, one quartermaster, one ensign for each stand of colors, one surgeon, one surgeon's mate, one sergeant major and one drum major. The first appointments made under this act were the four aides-de-camp to the commander-in-chief. Governor Claiborne chose John Watkins, Michael Fortier, Junior, Joseph Faurie, and William Nott as his staff. General Orders, April 17, 1805, Carter (ed.), Orleans Territory,

Every regiment was to be mustered and exercised annually, every battalion semiannually, and every company four times a year. These musters were to be held at such times and places as the respective commanders should determine. Fines ranging from three dollars for a commissioned officer to one dollar for a private were levied for non-attendance at musters and exercises. Disorderly or unmilitary conduct by a non-commissioned officer or private on a training day or while on duty carried a punishment of confinement for up to twenty-four hours and a fine of from three to ten dollars, as determined by the justice of the peace hearing the case. The first sergeant of each company was to handle the collection of fines, as well as all paper work. Officers could be discharged for a variety of reasons. The commander-in-chief could do so on written request from the officer or the legislature. An officer's service could also be terminated by a court martial, his removal from the territory, or a legislative act, or by his absence without leave for six months or more.¹¹

The act of 1805 also prescribed the equipment of

583; Louisiana Gazette, April 26, 1805. The position of adjutant general was filled by Colonel Francis Dutillet until he resigned and was succeeded by Colonel Henry Hopkins in November, 1805. General Orders, November 11, 1805, Carter (ed.), Orleans Territory, 591.

¹¹An Act for regulating and governing the militia of the Territory of Orleans, April 10, 1805, Acts Passed at the First Session of the Legislative Council, 274-78.

cavalry and infantry officers, as well as non-commissioned officers and privates. Failure of a cavalryman to be properly equipped for more than three months at a time was cause for his dismissal from that service and enrollment in an appropriate infantry unit. A maximum penalty of one dollar was set for any infantry non-commissioned officer or private who was not properly armed or equipped. Every person who attended a muster equipped improperly was subject to a fine of fifty cents, and those attending with unfit arms were liable to a fine of twenty-five cents.¹²

Uniform regulations were published in August, 1805. They stipulated in detail every item of apparel for every rank and service. The officers' uniforms were elaborate and gaudy.¹³

¹²Ibid., 282-86. The equipment of an infantry officer varied according to his duty. If he served on foot, he had to be armed with a sword; if mounted, with a sword and a pair of pistols. Each infantry non-commissioned officer and private had to provide himself with a good musket or gun, bayonet, two spare flints, knapsack, cartridge box or pouch holding twenty-four cartridges with powder and ball; or a good rifle, knapsack, shot pouch, powder horn, twenty balls suited to the bore of his rifle, and a quarter pound of powder.

¹³General Orders, August 12, 1805, Carter (ed.), Orleans Territory, 584-85. The brigadier general's uniform consisted of a long blue coat with buff facings and linings, yellow buttons, buff underclothes, and two gold epaulets with a silver star in each and a white plume. The uniforms of the aides-de-camp were the same as the staff to which they belonged except that their epaulets were plain. The aides of the commander-in-chief were distinguished by green plumes, while those of the brigadier general wore blue plumes. The adjutant general dressed like the aides-de-camp except he wore a red plume. The uniforms of colonels and majors were long blue coats with white buttons, red facings,

The militia act of April, 1805, evidently was not put into effect until August of that year at which time the governor issued general orders for the partitioning of the first militia district, which included the area from the Balize to the parish of Cabahanoce, into six regiments and one battalion.¹⁴ On August 20, Governor Claiborne set out from New Orleans to organize personally the militia in several outlying counties.¹⁵ Shortly thereafter, from his headquarters in Acadia, he issued orders for the activation of the militia of Lafourche, Iberville, Atakapas, Opelousas, Pointe Coupée, Concordia, Rapides, Natchitoches, and Ouachita counties.¹⁶ Evidently little was done, however,

and white linings, white underclothes, a pair of silver epaulets, and white plumes. All commissioned officers, except artillery, wore uniforms consisting of a long blue coat with white buttons and linings, white underclothes, and half boots. Artillery officers' uniforms had red linings and yellow buttons. Captains were distinguished by an epaulet, matching the color of their buttons, on the right shoulder and subalterns by one on the left. All commissioned officers were to wear black socks, cocked hats, black cockades ornamented with eagles matching the color of their buttons, and red silk sashes. The sashes of the general and field officers were worn outside the coat, while those of officers of inferior rank were worn underneath. The general orders did provide for minor deviations from the prescribed dress.

¹⁴General Orders, August 10, 1805, ibid., 584.

¹⁵Claiborne to Madison, August 20, 1805, Dunbar Rowland (ed.), Official Letterbooks of W. C. C. Claiborne, 1801-1816 (6 vols.; Jackson: State Department of Archives and History, 1917), III, 179.

¹⁶General Orders, August 23, 1805, Carter (ed.), Orleans Territory, 586.

for in November the Governor sent Colonel Henry Hopkins, the adjutant general, to the same counties to commission the officers and to assist in the organization of the regiments, battalions, and companies which were being formed. In his instructions the Governor directed the adjutant general to divide the officers' commissions between native Americans and Creoles.¹⁷ While organizing the militia of the counties above New Orleans, Colonel Hopkins was to endeavor to dispel rumors which were circulating to the effect that the area of Louisiana west of the Mississippi would shortly be retroceded to Spain, that Spanish land titles would be invalidated by the American government, and that outrageous taxation would be laid on the people. All efforts to get the Creoles to serve in the militia were unsuccessful as long as they felt that their affiliation with the American union was only temporary.¹⁸ By the same token, at this time Governor Claiborne displayed a distrust of the territory's native inhabitants by suggesting that an American be appointed brigadier general of the militia, instead of Colonel Bellechasse, his original choice.¹⁹

¹⁷Claiborne to Colonel Henry Hopkins, November 24, 1805, Rowland (ed.), Claiborne's Letterbooks, 235-37.

¹⁸Claiborne to Hopkins, November 25, ibid., 237-38.

¹⁹Claiborne to Henry Dearborn, May 31, 1806, ibid., 320. After the Burr excitement which involved Americans of repute Claiborne changed his opinion of Bellechasse. He thought him completely loyal and suggested that either Bellechasse or Colonel John B. M'Carty be appointed brigadier general of the Orleans militia. Claiborne to the Secretary

Hoping again that his presence would speed the effective reorganization of the militia, in the summer of 1806 Governor Claiborne set out on another tour of the territory. He reviewed several units of the militia before becoming ill with a fever.²⁰ Upon regaining his health, the Governor resumed his travels. When he arrived at Concordia in August he was informed that a Spanish force had violated American territory by crossing the Sabine River. Claiborne immediately set out to rally the militia of Natchitoches and Rapides counties to repel the invader.²¹ To his dismay, however, he found the militia there totally disorganized. The Americans, he felt, were willing to defend their territory, but the French were either still attached to the Spanish government or believed that, in case of war, the United States could not resist a Spanish invasion. Claiborne suggested to the Secretary of War that cavalry militia units from both Orleans and Mississippi territories be sent to guard the western frontier. Meanwhile, he placed the militia of Concordia, Opelousas, Rapides, and Ouachita on the alert

of War, December 13, 1807, Carter (ed.), Orleans Territory, 768-69.

²⁰Claiborne to President Jefferson, June 22, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 343; Claiborne to Dearborn, July 6, 1806, ibid., 355; Claiborne to Dearborn, July 9, 1806, ibid., 357-58.

²¹Claiborne to Dearborn, August 18, 1806, ibid., 381.

and set quotas for each county to send to Natchitoches.²² Despite the urgency of the crisis, the Governor promised no more than four hundred to four hundred and fifty militiamen for the troop buildup at Natchitoches and estimated that at least two weeks would be required for them to arrive there. The remaining militia units were to stay in their respective localities to defend the vulnerable western frontier.²³ To replace the regular troops who were also rushed from New Orleans to the frontier, Claiborne called out the local militia units there. Until the fall of 1806, the Governor held to the opinion that the "Ancient Louisianians" could not be depended upon to support the American cause,²⁴ but in October he changed his mind writing the Secretary of War "whatever may be the local discontents of the Louisianians I begin now to think, that they will very generally rally at the call of the Government."²⁵ With new found confidence in the Creoles, Claiborne ordered the muster of the militia of

²²Claiborne to Dearborn, August 28, 1806, ibid., 387-88.

²³Claiborne to Wilkinson, September 19, 1806, ibid., IV, 10.

²⁴Claiborne to Dearborn, October 8, 1806, ibid., 25.

²⁵Claiborne to Dearborn, October 12, 1806, ibid., 28-29. Claiborne changed his opinion of the Creoles when they volunteered for service during the border crisis. Charles Gayarre, History of Louisiana (4 vols.; 4th ed.; New Orleans: Pelican Publishing Company, 1965), IV, 151, 152; Walter Flavius McCaleb, The Aaron Burr Conspiracy (New York: Dodd, Mead, and Company, 1903), 120, 124.

New Orleans and its suburbs.²⁶ On October 17, 1806, every officer, non-commissioned officer, and private in attendance then voluntarily offered his service in defense of the territory,²⁷ but, as has been mentioned, these men remained in the city as replacements for the regular troops ordered to the Natchitoches area. In the meantime, the militia units from Rapides, Opelousas, Atakapas, and Natchitoches who had gathered at Natchitoches were formed into a regiment under the command of Colonel John Thompson and prepared for combat.²⁸ They saw no action, however, for a boundary settlement was worked out with the Spanish on November 6.²⁹

During the Spanish-American boundary crisis, the militia of the territory displayed serious defects in its discipline and organization. Recognizing this, Governor Claiborne recommended to the legislature in 1807 several modifications of the militia law. Among these were the imposition of stiffer penalties for disobedience to orders and improper conduct on parade, more frequent company musters, and substantial fines for non-attendance at musters. The

²⁶General Orders, October 31, 1806, Louisiana Gazette, October 13, 1806.

²⁷Claiborne to Dearborn, October 17, 1806, Rowland (ed.), Claiborne's Letterbooks, IV, 31.

²⁸Louisiana Gazette, October 14, 1806.

²⁹John V. Haggard, "Neutral Ground," The Handbook of Texas (Walter Prescott Webb, ed., 2 vols.; Austin: The Texas State Historical Association, 1952), II, 270; Louisiana Gazette, November 28, 1806.

Governor also advised a reorganization of the Battalion of Free People of Color, which had not been mentioned in the militia act of 1805, as a part of the regular militia.³⁰ The legislature, however, adjourned without acting on these recommendations,³¹ and the militia continued to be marked by apathy and indifference.³²

The weaknesses of the militia were causes of serious concern when by the end of 1807 another international crisis developed. Repeated British attacks on American shipping and impressment of American seamen had led to a war fever in the United States, and there was increasing fear of British attacks on vulnerable areas of the United States. To deal with this threat, in 1808, President Jefferson, with congressional authority, ordered the various state and territorial governors to hold in immediate readiness a portion of the local militia forces. The quota for the Orleans Territory was 873 men. Claiborne determined that of this number fifty should be artillery, fifty cavalry, fifty riflemen, and the rest infantry. He hoped to reach the quota by voluntary enlistment rather than a draft and proposed to

³⁰Governor Claiborne's Speech to the two Houses of the Assembly, January 13, 1807, Rowland (ed.), Claiborne's Letterbooks, IV, 92-93.

³¹Claiborne to the Secretary of War, April 21, 1808, Carter (ed.), Orleans Territory, 784.

³²Claiborne to the Secretary of War, June 16, 1808, ibid., 793.

equip and arm the men for battle, although they were not to receive any pay unless they actually took the field.³³ The required number of men was not raised as the Governor hoped from volunteers alone. In the counties of Iberville and Concordia a draft had to be used. It was the Creoles who offered their services, while many native Americans had to be drafted.³⁴ Once again the danger passed without the militia's being called upon to fight, and by April it had returned to a peace-time basis.³⁵

Criticism of the militia continued throughout the territorial years. Governor Claiborne in particular was blamed for its inefficiency, but local conditions were chiefly responsible for the militia's ineffectiveness. As Adjutant General Henry Hopkins pointed out in 1809, the extensive area and widely scattered settlements of the territory prevented regular attendance at musters. Some regiments drew their personnel from a distance of over one

³³Dearborn to Claiborne, October 29, 1808, Miscellaneous Letters Sent by the Secretary of War, 1800-1809 (Records of the Office of the Secretary of War. File Microcopies of Records in the National Archives: No. M-370. Microfilm in possession of author), III, 361; General Orders, December 23, 1808, Louisiana Gazette, December 30, 1808; General Orders, December 23, 1808, Courier de la Louisiane (New Orleans), January 2, 1809.

³⁴Claiborne to Dearborn, February 14, 1809, Rowland (ed.), Claiborne's Letterbooks, IV, 317.

³⁵Claiborne to the Secretary of War, June 16, 1809, Carter (ed.), Orleans Territory, 846; Courier de la Louisiane, June 17, 1809.

hundred miles on both sides of the Mississippi River, while others included men from as many as three parishes, such as Natchitoches, Rapides, and Ouachita. The polyglot population of the territory, especially in New Orleans, likewise prevented effective organization of the militia. Commands could be given in no one language that was intelligible to all. Since men within the same unit were strangers to each other and unfamiliar with each other's customs and manners, there was a lack of friendship and confidence among them. Furthermore, the militia law itself was too weak. The small fines provided for violations and the lack of authority given to officers encouraged violations.³⁶

Despite the urging of both the governor and adjutant general, the legislature long refused to strengthen the militia law. However, the slave insurrection of January, 1811, and the militia's prominent role in putting it down finally stirred it to action. Hoping to avoid the expense and unpopularity of providing an efficient militia force, the legislature first petitioned President Madison to station a regiment of regular troops permanently in New Orleans and the neighboring area.³⁷ When this request was ignored, the legislature finally amended the militia law. The new act

³⁶Claiborne to the Secretary of War, November 16, 1809, Carter (ed.), Orleans Territory, 853-54; Hopkins to Claiborne, October 28, 1809, ibid., 854-56.

³⁷Louisiana Gazette and New Orleans Daily Advertiser, February 28, 1811.

increased the number of musters required each year. Each regiment was to be mustered once, each battalion on the last day of May, and each company on the last day of every other month. The law also increased the fines for non-attendance at the required musters. For a commissioned officer, it was twenty dollars and for a non-commissioned officer or private, seven dollars. Provisions were made for the summary collection of fines and all monies were dedicated to the purchase of arms for the militia.³⁸

The amended act of 1811 was immediately a target of criticism. It was charged that its object was really to make money rather than to discipline the militia.³⁹ Moreover, the new law failed in its purpose, for Louisianians continued to disregard what they considered an unpleasant and burdensome duty except in times of imminent danger.⁴⁰

Despite the poor state of the territorial militia, not only was it partially mobilized to meet the international crises of 1806 and 1809, but it also acted intermittently as an internal police force. The Governor called portions of

³⁸An Act Supplementary to "An Act regulating and governing the Militia of the Territory of Orleans," April 29, 1811, Acts Passed at the Second Session of the Third Legislature of the Territory of Orleans . . . (New Orleans: Thierry, 1811), 148-64.

³⁹Louisiana Gazette and New Orleans Daily Advertiser, June 12, 1811.

⁴⁰Moniteur de la Louisiane (New Orleans), October 31, 1811; Louisiana Gazette and New Orleans Daily Advertiser, October 30, 1811.

the militia into service when violence and rowdyism erupted in New Orleans, when slaves threatened revolt, and when Indians committed atrocities against whites. The militia's service usually took the form of patrols throughout the troubled areas. By 1807 this sort of use of the militia as an extraordinary police force received legislative sanction.⁴¹ The militia also took part in public ceremonies celebrating national and local holidays, such as Washington's birthday, Independence Day, and the date of the annexation of Louisiana. Individual members of the militia acted as special aides or trouble shooters for the governor in dealing with foreign neighbors. For example, in 1806 Claiborne sent Captain George Ross to intercept the Marquis de Casa Calvo in the west to prevent his returning to New Orleans.⁴²

It is impossible to determine the strength of the militia throughout the territorial period, because there are no returns for the first two years. The first figures extant for the entire force were those for the last six months of 1806. At that time, 5,584 officers and men were enrolled.

⁴¹An Act to establish Patrols for the Internal Police of the Territory, March 31, 1807, Acts Passed at the Second Session of the First Legislature of the Territory of Orleans . . . (New Orleans: Bradford and Anderson, 1807), 98-102. An Act Supplementary to the act, entitled "An Act to establish patrols for the internal police of the territory," March 31, 1808, Acts Passed at the First Session of the Second Legislature of the Territory of Orleans . . . (New Orleans: Bradford and Anderson, 1808), 82-86.

⁴²Claiborne to Captain George Ross, January 12, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 239-40.

They were organized into ten regiments of infantry, the Battalion of Orleans Volunteers, and one cavalry regiment.⁴³ In 1806, the census of the territory reported 6,884 white men twenty-one years of age and over.⁴⁴ The discrepancy between the militia enrollment and census figures can be accounted for easily by those over fifty and not subject to militia duty, those between sixteen and twenty-one and subject to service, and numerous exemptions allowed under the original act. By 1810, the militia number had risen to 6,209, including thirteen regiments of infantry, the Battalion of Orleans Volunteers, and five troop of horses.⁴⁵ The population of free white males sixteen years old and over then totaled 10,601 while those between sixteen and forty-five numbered 8,093.⁴⁶ Using either figure, the proportion of men enrolled in the militia had declined since 1806. Among the reasons for the drop were the absence of effective governmental enforcement measures, the lack of impending threats to the safety of the territory, and dislike for conscription service.

⁴³Return of the Militia of the Territory of Orleans, December 31, 1806, Louisiana Gazette, January 6, 1807.

⁴⁴A General Census of the Territory of Orleans taken for the year 1806, December 31, 1806, Carter (ed.), Orleans Territory, 702.

⁴⁵Return of the Militia of the Territory of Orleans, June 30, 1810, ibid., 886.

⁴⁶Census of 1810, February 12, 1810, Thomas Bolling Robertson, Population Schedules of the Third Census of the United States, 1810, X, Louisiana (File Microcopies of Records in the National Archives: No. 252. Microfilm in the Russell Library, Northwestern State College, Natchitoches, Louisiana).

CHAPTER XII

DEFENSE AND POTENTIAL HOSTILITIES

From the inauguration of American occupation, federal authorities stationed regular troops in Louisiana. The military force had two functions--to maintain internal order and to protect Louisiana against external attacks. Regular troops accompanied the two commissioners, William C. C. Claiborne and General James Wilkinson, to New Orleans to take possession of Louisiana. The troops acted as both a guard of honor and as an occupying force during the early months of American control. The original units were under the command of General Wilkinson who remained in New Orleans until April, 1804, waiting for the French and Spanish dignitaries and troops to withdraw under the terms of the transfer. Meanwhile, the General requested that additional troops be sent to New Orleans to ensure the safety and security of the new possession. Secretary of War Dearborn responded by ordering to the city three additional companies and a new commander in the person of Lieutenant Colonel Constant Freeman. With these reinforcements, the military force in

lower Louisiana consisted of ten companies of regulars.¹ In March, 1804, the Secretary of War further augmented the troops in New Orleans by ordering two companies of marines there. The marines, under the command of Captain Daniel Carmick, arrived in the city early in May.² About a month later, Colonel Freeman assumed his new duties.³ Thus within six months the United States government established an adequate military force in Louisiana.

During the first summer, the American troops encountered what would be their greatest enemy--sickness. By October, ninety-four men had died of fever, twenty-two were sick in New Orleans, and eighty in Camp Claiborne outside of the city limits. Of the officers in New Orleans and at Camp Claiborne, only three, including Freeman himself, were fit

¹Henry Dearborn to Thomas H. Cushing, January 31, Letters Sent by the Secretary of War, Relating to Military Affairs, 1800-1889 (Records of the Office of Secretary of War. File Microcopies of Records in the National Archives: No. M-6. Microfilm in possession of author), II, 159-61. Hereinafter cited as L.S., S.W., M.A.; Dearborn to Constant Freeman, January 31, 1804, ibid., 161; Dearborn to Wilkinson, February 2, 1804, ibid., 164.

²Dearborn to Thomas Wilson, March 14, 1804, Miscellaneous Letters Sent by the Secretary of War, 1800-1809 (Records of the Office of Secretary of War, File Microcopies of Records in the National Archives: No. M-370. Microfilm in possession of author), II, 66. Hereinafter cited as L.S., S.W., Miscellaneous; Dearborn to the Officer Commanding at New Orleans, March 15, 1804, L.S., S.W., M.A., II, 197; Claiborne to Dearborn, May 5, 1804, Dunbar Rowland (ed.), Official Letterbooks of W. C. C. Claiborne, 1801-1816 (6 vols.; Jackson: State Department of Archives and History, 1917), II, 129.

³Claiborne to Dearborn, June 9, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 199.

for duty. Neither the repair of the fortifications nor the mounting of cannon could be completed because the artificers were among the victims of the fever.⁴

During the spring and summer of 1804, some of the forces assembled at New Orleans were sent to posts in the interior of the province to guard the boundary between Texas and Louisiana. In the fall, seventy-four men were stationed at Ouachita, Opelousas, and Atakapas; seventy were at Natchitoches; and seventy-three were at Plaquemines, leaving five hundred and twelve at New Orleans. According to General Wilkinson even these figures were probably too high because of desertions, deaths, and other casualties.⁵

The principal function of these troops was to guard the international boundary, although they were also responsible for policing the Indians and the whites who had dealings with them. The Spanish government for a time refused to acknowledge as legal the French sale of Louisiana to the United States, because Napoleon had violated his promise not to alienate the area to a third party. By February, 1804, however, His Catholic Majesty decided to abandon his opposition to the transfer and ordered Don Pedro

⁴Freeman to Wilkinson, October 6, 1804, Letters Received by the Secretary of War, Main Series, 1801-1870 (Records of the Office of Secretary of War. File Microcopies of Records in the National Archives: No. M-221. Microfilm in possession of author), II. Hereinafter cited as L.R., S.W., M.S.

⁵Disposition of troops by Wilkinson, November 29, 1804, ibid.

Cevallos, his minister of state, to so notify Charles Pinckney, American minister to Spain. In May the Marquis de Casa Yrujo, Spanish minister to the United States, conveyed the same information to James Madison, Secretary of State.⁶ Despite these friendly assurances, the Spanish officials of West Florida and Texas constantly fostered ill feelings toward the neighboring Americans and provoked tension along the Spanish-American frontiers. Harassment, based on fear of American aggression and regret at giving up Louisiana, became the policy of the Spanish and American abandonment of Louisiana its objective. Incidents occurred after October, 1804, expressive of Spanish hostility. At such times the United States army, as well as the local militia, was alerted for defense of the territory.

As was stated previously, the Spanish government began its policy of harassment during the period between the beginning of American occupation of Louisiana and the establishment of the first territorial government. During these eight and one-half months, Spanish hostility took the form of His Catholic Majesty's officials and troops remaining

⁶Extract of a letter from Don Pedro Cevallos, Minister of His Catholic Majesty, to Charles Pinckney, Esq., dated at the Pardo, February 10th, 1804, American State Papers, Foreign Relations, II, 583; Copy of a letter from the Marquis de Casa Yrujo to the Secretary of State, May 15, 1804, ibid.; also cited with errors in Rufus Blanchard, Documentary History of the Cession of Louisiana to the United States Till It Became An American Province (Chicago: R. Blanchard, 1903), 31; Philip C. Brooks, "Spain's Farewell to Louisiana, 1803-1821," The Mississippi Valley Historical Review, XXVII (June, 1940), 30.

unnecessarily long in New Orleans, the circulation of rumors of the impending exchange of Louisiana for West Florida, troop buildups at Nacogdoches and Adaes, encouragement of slaves to escape from American territory, and tampering with the Indians within the jurisdiction of the United States.⁷ With the establishment of the territorial government in October 1804, the Spanish officials redoubled their efforts to convince the Americans to give up their possession. The immediate American response to Spanish machinations was two-fold. Governor Claiborne, as the highest ranking civil authority in the territory, carried on a spirited correspondence with the Marquis de Casa Calvo objecting to the hostile Spanish measures, while Secretary Dearborn ordered military reinforcements to Natchitoches and directed the purchase of \$3,000 worth of goods to placate the Indians on the western frontier.⁸ By the end of 1804, relations between Louisiana and her Spanish neighbors temporarily improved because the Texas authorities returned some runaway slaves who had fled into their territory.⁹

⁷See Isaac Joslin Cox, "The Louisiana-Texas Frontier, II," The Southwestern Historical Quarterly, XXVII (July, 1913), 1-42 for a comprehensive survey of Spanish-American relations during the early territorial period.

⁸Dearborn to Wilkinson, December 13, 1804, L.S., S.W., M.A., II, 274.

⁹Turner to Claiborne, November 28, 1804, Territorial Papers: Orleans Series, 1794-1813 (General Records of the Department of State. File Microcopies of Records in the National Archives: No. T-260. Microfilm in the New Orleans Public Library, New Orleans, Louisiana), IV. Hereinafter cited as S.D. Territorial Papers.

Taking advantage of the momentary friendly relations, early in 1805, President Jefferson directed Governor Claiborne to seek Spanish consent for running a post road from Georgia to New Orleans through Spanish-held West Florida. Unreliable and slow mail communication between New Orleans and Washington had added to the difficulty of governing Louisiana ever since the transfer. The President hoped to reduce the time required for carrying a letter from Washington to New Orleans to twelve days by this more direct route.¹⁰ Claiborne immediately consulted with Casa Calvo, who approved of the proposed route from Fort Stoddart, on the Mobile River, to the mouth of Pearl River.¹¹ Since, however, the Marquis held no official position, permission had to be sought from Governor Vincente Folch of West Florida, who also consented to the American request.¹²

While Spanish officials were cordially acceding to the proposed American mail route, they were also strengthening their military establishments in West Florida contrary to a mutual understanding that no augmentation of forces would take place in the territories in dispute between the

¹⁰President to Claiborne, January 7, 1805, Clarence E. Carter (ed.), Orleans Territory, 1803-1812 (Volume IX of Territorial Papers of the United States (Washington: Government Printing Office, 1940), 363-64.

¹¹Claiborne to the Marquis de Casa Calvo, February 20, 1805, ibid., 439; Marquis de Casa Calvo to Claiborne, February 21, 1805, S.D. Territorial Papers, VI.

¹²Claiborne to Madison, August 9, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 156-57.

two nations. Aroused by this new Spanish threat to American security, Secretary of State Madison directed Claiborne to notify the Marquis de Casa Calvo that the military movements in West Florida called for the reinforcing of United States garrisons on the Mississippi River. Casa Calvo explained the Spanish military action as simply the concentration of troops who had been withdrawn from other areas of Louisiana in Baton Rouge, Mobile, and Pensacola. At the same time, he observed that Spain interpreted the revenue act of 1804,¹³ which created the Mobile customs district, as an American attempt to claim part of West Florida. To counter this aggression, the Spanish authorities had ordered a fleet and four thousand regular troops to Mexico. The soldiers were destined eventually to occupy Texas eastward to the Sabine River. According to the Marquis, however, the order was never executed because the revenue act was explained to Spain's satisfaction.¹⁴ Claiborne, however, continued to believe that His Catholic Majesty was increasing his military garrisons in East Texas with the object of establishing the Mississippi River as the boundary between Spanish and American territory and to accomplish this would be willing to give up East and West Florida in exchange for Louisiana

¹³United States Statutes at Large, II, 254.

¹⁴Secretary of State to Claiborne, February 25, 1805, Carter (ed.), Orleans Territory, 397-98; Claiborne to the Secretary of State, April 19, 1805, ibid., 435-36.

west of the Mississippi River.¹⁵

American suspicions of Spanish intentions in Texas were aroused by rumors originating in Natchitoches. Both Captain Edward Turner, the commandant there, and Dr. John Sibley, the Indian agent, reported that the Spanish were erecting new fortifications, repairing old ones, and augmenting their troops in East Texas. The Dons were also tampering with the loyalty of the whites and Indians of the western areas. One incident in particular aroused concern among the American officials. In May, 1805, a Spanish visitor, purporting to be a bishop, arrived in Natchitoches escorted with pomp and show by a retinue of armed dragoons. According to Turner, the bishop was a well educated individual who from appearances seemed more like a military man than a cleric. He remained in Natchitoches four days noting geographical features. General Wilkinson considered the bishop to be a spy, and Claiborne was convinced his was a political rather than a religious mission,¹⁶ but the true purpose of his visit was never known.

¹⁵Claiborne to the Secretary of State, April 21, 1805, ibid., 437; Claiborne to Madison, April 21, 1805, S.D. Territorial Papers, VI.

¹⁶Wilkinson to Dearborn, July 27, 1805, L.R., S.W., M.S., II; Turner to Wilkinson, May 11, 1805, ibid.; Claiborne to Madison, June 5, 1805, S.D. Territorial Papers, VI. Isaac Joslin Cox, The Early Exploration of Louisiana (Volume II, series II (January-February, 1906) of University Studies, Cincinnati: University of Cincinnati, 1906), 64-65 states that the visitor was the Bishop of Nuevo Leon whose diocese included Texas, but he does not explain the cleric's uncommon interest in taking latitudes and noting geographic features of Louisiana.

In the summer of 1805, the Spanish made several aggressive moves on both the Texas and West Florida frontiers. A Spanish patrol stopped an American trader, hired by Bartholomew Shaumburgh under a government license to trade with the Caddos, at Bayou Pierre¹⁷ on American soil and confiscated his goods, along with some property of Dr. John Sibley. Shortly thereafter, six Spanish dragoons halted another resident of Natchitoches, with some associates, within three leagues of the Opelousas church and, after using abusive language, seized the American's horse on the pretext that it carried the king's brand. Simultaneously, accounts reached Natchitoches of the erection of new stockades and the arrival of troop reinforcements in East Texas, especially at Nacogdoches,¹⁸ as well as at Pensacola and Baton Rouge in West Florida.¹⁹ Rumors of warlike preparations on both

¹⁷A small settlement twenty-five or thirty miles north of Natchitoches which, although on the American side of the Sabine River, was not turned over to American authorities at the time of the transfer of Louisiana because the United States did not know of its existence.

¹⁸Turner to Wilkinson, September 30, 1805, L.R., S.W., M.S., II; Deposition of Gaspar Bodine, Lewis Bodine, and Andrew Chamar, October 3, 1805, ibid.

¹⁹Extract of a letter from Freeman to Wilkinson, October 3, 1805, ibid.; John Graham to Madison, September 10, 1805, S.D. Territorial Papers, VII.

Louisiana borders continued to circulate throughout the winter of 1805.²⁰

Meanwhile, still another dispute arose between the United States and her Spanish neighbors. It concerned the free navigation of the Mobile River by American vessels supplying United States garrisons and Indian factories north of Florida. In the fall of 1805, the Spanish authorities at Mobile prevented an American vessel, loaded with supplies for Fort Stoddart, from ascending the river unless the captain agreed to pay a twelve per cent duty on the cargo.²¹ The interruption of the free navigation of the Mobile River threatened the very existence of American garrisons on the Tombigbee River and the economic well being of American settlers in the area; therefore, Governor Claiborne protested to both Juan Ventura Morales in New Orleans and Governor Vincente Folch of West Florida.²² Morales disclaimed any jurisdiction in the matter,²³ while Folch agreed to suspend

²⁰Claiborne to Madison, October 24, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 212; Claiborne to Robert Williams, October 24, 1805, ibid., 213-14; Claiborne to Dearborn, October 30, 1805, ibid., 216-17; Claiborne to Madison, November 5, 1805, ibid., 225-26; Louisiana Gazette (New Orleans), February 11, 1806.

²¹Graham to Madison, September 10, 1805, S.D. Territorial Papers, VII.

²²Claiborne to Morales, October 22, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 205-206; Claiborne to Folch, October 31, 1805, ibid., 221-22.

²³Claiborne to Madison, October 24, 1805, ibid., 211-12; Louisiana Gazette, February 11, 1806.

the collection of duties on American vessels if a like policy would be pursued by the United States government regarding Spanish ships navigating the Mississippi River.²⁴ There was no detention or collection of duties applied to Spanish vessels destined for Baton Rouge or other Spanish territory on the Mississippi River. William Brown, collector of the port of New Orleans, prevented only Spanish ships carrying slaves from entering the Mississippi in violation of American laws. Governor Claiborne notified Governor Folch of the American policy, but feared that Folch would seize upon the restriction on slave ships as a pretext for continuing the duty at Mobile.²⁵ The Spanish authorities continued to interdict American commerce on the Mobile River.²⁶

By November and December, 1805, the United States government grew weary of the Spanish closing of the Mobile River to American commerce and violations of the Louisiana-Texas boundary, and when negotiations concerning Spanish-American differences over the limits of Louisiana stalled at Madrid, the American government was ready to take a definite

²⁴Graham to Madison, November 30, 1805, S.D. Territorial Papers, VII; Folch to Claiborne, November 28, 1805, ibid.

²⁵Claiborne to William Brown, December 7, 1805, ibid.; Brown to Claiborne, December 7, 1805, ibid.; Claiborne to Folch, December 9, 1805, ibid.; Claiborne to the Secretary of State, December 9, 1805, Carter (ed.), Orleans Territory, 542-43; Claiborne to the Secretary of State, March 27, 1806, ibid., 616-17.

²⁶Claiborne to Dearborn, June 15, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 328-29.

stand against Spanish hostility. President Jefferson, in consultation with the Secretary of State, directed that all persons in the service of His Catholic Majesty be ordered to leave the Territory of Orleans.²⁷ This directive included the Marquis de Casa Calvo whose claim to being a commissioner of limits was rejected.²⁸ The Marquis had, however, previously set out on a journey to Los Adaes to hunt game and to search for some stone posts which supposedly marked the western boundary of Louisiana under French dominion. Governor Claiborne had issued Casa Calvo a passport for his western journey but had required an American officer from the garrison at Natchitoches to join the expedition at Los Adaes to represent the United States' interests.²⁹ By

²⁷Secretary of State to Claiborne, November 18, 1805, Carter (ed.), Orleans Territory, 533-34.

²⁸Ibid. Casa Calvo was a commissioner of limits to settle the western boundary dispute. Claiborne refused to recognize this commission stating that only the President could recognize ambassadors, ministers, and foreign agents. The Governor also refused to extend to Casa Calvo privileges reserved for foreign ministers. Claiborne to Casa Calvo, November 18, 1804, Rowland (ed.), Claiborne's Letterbooks, III, 16-17; Claiborne to Casa Calvo, November 22, 1804, ibid., 20-21. In December, 1804, Governor Claiborne ordered Casa Calvo's personal guard disbanded because of complaints by the Legislative Council and irate citizens. Claiborne to the Secretary of State, December 31, 1804, ibid., 34; Claiborne to Madison, December 8, 1805, ibid.; Casa Calvo to Claiborne, January 2, 1805, ibid. According to Cox, The Early Exploration of Louisiana, 57, Casa Calvo was not only an object of suspicion to American authorities, but also an object of jealousy to his Spanish associates in Texas and Mexico.

²⁹Claiborne to Turner, October 14, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 196-98; Claiborne to Madison, October 14, 1805, ibid., 198-99. Claiborne did not

November, New Orleans was alive with various rumors of the Marquis's real objective in his western trip. Some said it was to meet and take command of three thousand troops in Texas; others supposed it was to sow discontent among the people of the territory; and still others reported that Casa Calvo's purpose was the placation of the Indians along the western frontier.³⁰

The Presidential decree for the expulsion of Spanish officials from the territory was followed by an order from the Secretary of War to Major Moses Porter, commanding officer at Natchitoches, to request immediately from the Spanish commandant at Nacogdoches assurance that no more acts of violence or infringements of American sovereignty would occur east of the Sabine River. Meanwhile, Porter was to establish patrols throughout the area east of the Sabine to intercept and arrest Spanish violators of American soil, repel invasion if necessary, and protect the lives and property of persons under the jurisdiction of the United States. Bloodshed was to be avoided if possible, and arrested Spanish citizens were to be returned to Nacogdoches for punishment, if the Spanish commandant would give satisfactory assurance of punishment. Otherwise, the civil

believe Casa Calvo's reasons for the trip, but felt compelled to issue him a passport since the Marquis had previously issued one to William Dunbar, Cox, The Early Exploration of Louisiana, 67.

³⁰Claiborne to Madison, November 5, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 225.

authority of the United States would handle the punishment of trespassers.³¹ Following his instructions, Major Porter asked Dionisio Valle, commandant of Nacogdoches, to guarantee that the Sabine River boundary would not be violated, but his request was rejected.³² In December, 1805, President Jefferson addressed Congress on the critical situation along the Louisiana-Texas boundary. The President declared that he did not expect war to result from the measures adopted by the government to protect the honor of the country and the property of its citizens, but he wanted Congress to be aware of the situation in case a more serious conflict should ensue.³³

President Jefferson's messages of December, 1805, were considered by the territorial officials of Orleans as a call for preparedness against possible Spanish attack. Both the governor and the secretary, John Graham, concluded that in such an event the native inhabitants could not be depended upon and that the majority of them would remain neutral until such time as they could join the winning side.³⁴ To

³¹Dearborn to the Commanding Officer at Natchitoches, November 20, 1805, L.S., S.W., M.A., II, 397-98.

³²American State Papers, Foreign Relations, II, 798.

³³James D. Richardson, A Compilation of the Messages and Papers of the Presidents, 1789-1902 (10 vols.; New York: Bureau of National Literature and Art, 1903), 388-90.

³⁴Graham to the Secretary of State, January 2, 1806, Carter (ed.), Orleans Territory, 553-54; Claiborne to the Secretary of State, January 8, 1806, ibid., 560-61.

lessen the chances of trouble erupting, Claiborne determined to notify Casa Calvo, who was still traveling in the West, immediately of the President's order to leave the territory. He hoped to send an express to the Marquis before he returned to New Orleans where he had influential friends.³⁵ He likewise requested Juan Ventura Morales, the ex-intendant, to leave the city as soon as possible.³⁶ Morales left for Pensacola on February 1, 1806.³⁷ Casa Calvo, however, returned to the city on February 4 without having been intercepted by Claiborne's dispatch,³⁸ but on February 15, he too set sail for Pensacola,³⁹ leaving New Orleans free of high-ranking foreign officials for the first time.

³⁵Claiborne to the Secretary of State, January 7, 1806, ibid., 557; Claiborne to Casa Calvo, January 10, 1806, James A. Robertson (ed.), Louisiana Under the Rule of Spain, France, and the United States, 1785-1807 (2 vols.; Cleveland: The Arthur H. Clark Company, 1911), II, 351-52.

³⁶Claiborne to Morales, January 11, 1806, Rowland (ed.), Claiborne's Letterbooks, II, 238-39.

³⁷Claiborne to Morales, January 27, 1806, ibid., III, 251.

³⁸Claiborne to Madison, February 6, 1806, ibid., 260-61. Cox, The Early Exploration of Louisiana, 71-72 cites evidence proving that Casa Calvo's purpose in his western trip was to determine the boundary between Louisiana and Texas, and not to invite an insurrection among the Creoles or start a border incident between the Spanish and American garrisons. However, Cox also admits that the Marquis might have hoped, in the event of his losing his position as a boundary commissioner, to play an important role in any border struggle that might ensue.

³⁹Claiborne to the Secretary of State, February 19, 1806, Carter (ed.), Orleans Territory, 603.

The departure of the Spaniards did not improve Spanish-American relations, however, because of Spanish encroachments on American-held territory east of the Sabine River. In late January, the Dons advanced to within four miles of Natchitoches where they established a small post. On February 5, a detachment from Fort Claiborne commanded by Captain Edward Turner marched from Natchitoches to remove the invaders to the west side of the Sabine. On their approach, the Spanish troops reluctantly withdrew to the river with the Americans following them.⁴⁰

With these recent Spanish movements in mind, Governor Claiborne recommended to the Secretary of State reinforcement of the regular military establishment in New Orleans both to deter Spanish aggression and to bolster the morale of the native Louisianians.⁴¹ The United States military force in and near the Territory of Orleans at the beginning of 1806 consisted of 975 men, or fifteen companies with an average of sixty-five men each. Six companies were stationed in New Orleans and its immediate vicinity, two on the Mobile, two at Fort Adams, Pointe Coupée, and on the Ouachita, and five at Natchitoches and Opelousas. An additional force of 300 men was in the vicinity of St. Louis ready to descend

⁴⁰Louisiana Gazette, February 28, 1806; Thomas Perkins Abernethy, The Burr Conspiracy (New York: Oxford University Press, 1954), 48.

⁴¹Claiborne to the Secretary of State, March 27, 1806, Carter (ed.), Orleans Territory, 617.

the river. According to Secretary of War Dearborn, the Spanish forces consisted of 1,225 men. Of these, one hundred were in West Florida, 750 at Pensacola, St. Marks, and Mobile, seventy-five at Baton Rouge, and 300 in the vicinity of Nacogdoches and on the Trinity and Sabine rivers. Assuming these figures to be accurate, the two forces were approximately equal in size. However, the Secretary of War also reported to Congress that he had information that sizable Spanish reinforcements were being sent to Pensacola and that four or five thousand additional troops were destined for East Texas. If these reports were true, more American troops would be needed,⁴² particularly since American fortifications in the Territory of Orleans, especially those in and around New Orleans, were in a state of disrepair and not capable of protecting the area from attack.⁴³

In the spring of 1806, the Secretary of War began to put into motion plans for strengthening the American military posture in the Territory of Orleans. He ordered Colonel Thomas E. Cushing with three companies of infantry, two field pieces, and necessary supplies to Natchitoches and

⁴²Dearborn to Thomas Randolph, December 24, 1805, L.S., S.W., Miscellaneous, II, 336-37.

⁴³A Report of the Secretary of War, February 13, 1806, Reports to Congress from the Secretary of War, 1803-1870 (Records of the Office of Secretary of War. File Microcopies of Records in the National Archives: No. M-220. Microfilm in possession of author), I, 14, 18. Hereinafter cited as Reports to Congress, S.W.

other reinforcements to Fort Adams.⁴⁴ To prevent a misunderstanding of American intentions, Dearborn authorized Major Porter at Natchitoches to explain, if an opportunity presented itself, to the Spanish commandant that the purpose of the troops was not aggressive, but simply to protect territory actually surrendered to the United States until a permanent boundary could be negotiated. He likewise instructed Porter to assure American inhabitants along the western frontier that the United States would not give up an inch of territory by treaty or otherwise.⁴⁵ To counter Spanish control of the Mobile River, Dearborn ordered the opening of a land-water communication from New Orleans to Fort Stoddart by way of the Pascagoula River⁴⁶ as a supply route for the American garrisons and Indian factories north of Florida. The Secretary of War also took steps to improve the fortifications of the New Orleans area. He ordered an engineer to the city to improve its defenses, probably by building blockhouses and batteries. The fortifications at Plaquemines and Fort St. John were also to be repaired. Dearborn sent nine gunboats to Lake Pontchartrain and the Mississippi River to reinforce the land defenses.⁴⁷

⁴⁴Dearborn to Wilkinson, March 18, 1806, L.S., S.W., M.A., II, 437; Dearborn to Freeman, March 19, 1806, ibid., 439.

⁴⁵Dearborn to Porter, March 19, 1806, ibid., 438-39.

⁴⁶Dearborn to the Commanding Officer, Fort Stoddart, April 26, 1806, ibid., 456-57.

⁴⁷Dearborn to Freeman, April 26, 1806, ibid., 457-59.

Should still more troops be needed, the Secretary of War ordered Governors Claiborne and Williams of the Orleans and Mississippi territories, respectively, to ready their militias quietly for service,⁴⁸ and he ordered General Wilkinson back to Orleans Territory to assume command of the troops and prevent any invasion of United States territory east of the Sabine or north or west of West Florida. In the event of such an invasion, he was to meet force with force. As long as negotiations were pending, however, neither side was to advance its military posts. For the Spanish to attempt to do so would be considered an invasion of American territorial rights.⁴⁹

The dispute over the Texas-Louisiana boundary that came to a head in 1806 resulted from the ambiguity of the language of the purchase treaty on that subject. It stipulated that the extent of Louisiana was to be the same as it was when possessed by France and later by Spain. The question then was what had been the boundaries of Louisiana under France and Spain.⁵⁰ By September, 1803, the Spanish claimed the Arroyo Hondo, a stream mid-way between Los Adaes and

⁴⁸Secretary of War to Claiborne, April 23, 1806, Carter (ed.), Orleans Territory, 627-28.

⁴⁹Dearborn to Wilkinson, May 6, 1806, L.S., S.W., M.A., III, 408; Abernethy, Burr Conspiracy, 49-50.

⁵⁰For a comprehensive survey of the Texas-Louisiana boundary issue before 1803 see Isaac Joslin Cox, "The Louisiana-Texas Frontier, I," Quarterly of the Texas State Historical Association, X (July, 1906), 1-75.

Natchitoches, as the eastern boundary of Texas,⁵¹ while the American government claimed successively the Rio Grande, the Colorado River, and the Sabine River as the western boundary of Louisiana. From March, 1804, to March, 1806, the two nations intermittently attempted to resolve the boundary issue at the conference table with no success.⁵²

While negotiations were being conducted in Spain, local Spanish officials on the Texas frontier decided to strengthen their military posts against expected American aggression west of the Sabine River.⁵³ Don Nemesio Salcedo, commandant general of the Interior Provinces, ordered Don Antonio Cordero to Texas to act as governor and directed the sending of reinforcements to the eastern frontier.⁵⁴ Augmentation of the Spanish troops began immediately. From

⁵¹Nemesio Salcedo to Casa Calvo and Manuel de Salcedo, September 26, 1803, Robertson (ed.), Louisiana Under the Rule, II, 139-40.

⁵²J. Villasana Haggard, "The Neutral Ground between Louisiana and Texas, 1806-1821," The Louisiana Historical Quarterly, XXVIII (October, 1945), 1024-28; French Ensor Chadwick, The Relations of the United States and Spain: Diplomacy (New York: Charles Scribner's Sons, 1909), 72.

⁵³Philip C. Brooks, "Spain's Farewell to Louisiana," M.V.H.R., XXVII, 29-30. Brooks presents the thesis that after the age of Charles III Spain did not have much opportunity to expand. Therefore, "The keynote became gradually one of defensive fortification, retreat, and efforts at what might be called defensive re-expansion." As part of this new policy, Spanish authorities along the United States borders constantly called for more troops to oppose American aggression.

⁵⁴Haggard, "The Neutral Ground," L.H.Q., XXVIII, 1028-29.

a normal figure of 700 the number of regular troops in the Province of Texas was increased to 801 by March, 1806, and to 1,273 by November, of whom 883 were stationed at Nacogdoches.⁵⁵ Cordero assumed the governorship of Texas in October, 1805, and immediately stationed small detachments of troops along the eastern Texas boundary with instructions to patrol east as far as the Arroyo Hondo, north to Los Adaes, and southward to the Calcasieu River.⁵⁶ In December, 1805, Governor Cordero directed that a detachment of troops be advanced even closer to the Arroyo Hondo for the purpose of establishing an outpost.⁵⁷ In obedience to these orders, Don Sebastian Rodriguez moved a patrol from La Nana to Juan Mora's lagoon, about two and a half miles on the Louisiana side of Los Adaes.⁵⁸

The Americans responded quickly to the Spanish advances. Major Porter, commandant of Fort Claiborne, sent a communication to Captain Rodriguez requesting that all troops of Spain east of the Sabine be withdrawn and not allowed to recross the river.⁵⁹ The Spanish commandant replied that his instructions prohibited compliance with the

⁵⁵Ibid.

⁵⁶Walter Prescott Webb (ed.), The Handbook of Texas (2 vols.; Austin: The Texas State Historical Association, 1952), I, 412; Haggard, "The Neutral Ground," L.H.Q., XXVIII, 1029.

⁵⁷Haggard, "The Neutral Ground," L.H.Q., XXVIII, 1030.

⁵⁸Ibid.

⁵⁹Ibid., 1031.

American request, and that he would continue to patrol as far east as the Arroyo Hondo.⁶⁰ At this juncture, Major Porter sent Captain Edward Turner with sixty men to remove the Dons west of the Sabine River,⁶¹ and both sides temporarily withdrew their troops from the disputed area.⁶² Neither, however, relinquished his claim to exclusive jurisdiction over the area between the Sabine and the Arroyo Hondo. It was therefore only a matter of time until trouble erupted again.

As early as April, 1806, the Spaniards began to move back into the disputed area. Salcedo ordered Lieutenant Colonel Don Simon Herrera with six hundred militiamen to the Louisiana frontier.⁶³ He was appointed commandant of the Louisiana frontier and proceeded to his post. Upon arriving there, Herrera began patrolling the area between the Sabine and Arroyo Hondo to make sure it was free of Americans.⁶⁴

⁶⁰Ibid.

⁶¹Porter to the Secretary of War, February 8, 1806, American State Papers, Foreign Relations, II, 798; Turner to Porter, February 6, 1806, ibid., 799; Walter Flavius McCaleb, The Aaron Burr Conspiracy (New York: Dodd, Mead, and Company, 1903), 107.

⁶²Cordero to Porter, March 7, 1806, L.R., S.W., M.S., XII; Claiborne to Dearborn, May 31, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 320; Claiborne to Dearborn, June 5, 1806, ibid., 328.

⁶³Webb (ed.), Handbook of Texas, I, 802; Haggard, "The Neutral Ground," L.H.Q., XXVIII, 1035; McCaleb, Aaron Burr Conspiracy, 108.

⁶⁴Haggard, "The Neutral Ground," L.H.Q., XXVIII, 1035.

The activities of the Dons did not go unnoticed in Louisiana. In July, 1806, Governor Claiborne warned the Secretary of War that the Spaniards were again assembling a force at Nacogdoches and were threatening to recross the Sabine River.⁶⁵ In August, Colonel Thomas H. Cushing sent Major Porter to Herrera with a letter requesting an explanation of the presence of Spanish troops on American soil and demanding their withdrawal. Cushing explained the recent reinforcement of United States troops at Natchitoches as a purely defensive measure, and promised not to alter the status of the disputed territory if the Spanish troops were withdrawn.⁶⁶ Herrera replied that the Spanish had crossed the Sabine to protect the king's territory and warned that any infringement upon the area west of the Arroyo Hondo might lead to hostilities.⁶⁷

Upon learning that the Spaniards had recrossed the Sabine, Governor Claiborne, who was visiting at Natchez, rushed immediately to the western frontier. Since Wilkinson had not yet arrived to take command of the troops, before leaving Natchez, Claiborne arranged with Cowles Mead,

⁶⁵Claiborne to Dearborn, July 29, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 375.

⁶⁶Cushing to Herrera, August 5, 1806, American State Papers: Foreign Relations, II, 801; Louisiana Gazette, January 27, 1807.

⁶⁷Herrera to Cushing, August 6, 1806, American State Papers: Foreign Relations, II, 801; Louisiana Gazette, January 27, 1807; Turner to Claiborne, August 8, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 382.

acting governor of Mississippi Territory, for joint action to protect New Orleans in case of hostilities.⁶⁸ At the same time, the regular troops stationed at Fort Adams departed for Natchitoches.⁶⁹ Claiborne arrived at Natchitoches on August 24, 1806, and after being briefed on the situation, wrote Herrera protesting the recent Spanish violations of American sovereignty. Among the incidents he mentioned were the crossing of the Sabine River, halting Thomas Freeman's scientific expedition ascending the Red River,⁷⁰ cutting down the American flag in a Caddo village, arresting three United States citizens within twelve miles of Natchitoches, and encouraging the escape of slaves to Texas. Claiborne warned Herrera that "if the officers of Spain should persist in their acts of aggression, your

⁶⁸Claiborne to Freeman, August 17, 1806, ibid., 377; Statement of Claiborne and Mead, August 17, 1806, Carter (ed.), Orleans Territory, 696-97; Claiborne to John Watkins, August 17, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 378; Abernethy, Burr Conspiracy, 52.

⁶⁹Louisiana Gazette, August 28, 1806.

⁷⁰The President appointed Thomas Freeman to lead a scientific party up the Red River from its confluence with the Mississippi to its source. In May, 1806, Freeman and his party began ascending the river but on July 29, after about 600 miles, they were stopped by a Spanish armed detachment and forced to return to Natchitoches. Thomas Freeman to Claiborne, August 26, 1806 [William Charles Cole] Claiborne Papers (Mississippi Department of Archives and History, Jackson, Mississippi). The Marquis de Casa Calvo issued a passport for Freeman's party, but Salcedo, fearing American expansionism as evidenced particularly by exploring parties and Indian negotiations, ordered a military force from Texas to halt Freeman's expedition. Cox, The Early Exploration of Louisiana, 59.

Excellency will readily anticipate the consequences, and if the sword be drawn, let those be responsible, whose unfriendly Conduct has rendered it indispensable."⁷¹ Herrera replied by denying Claiborne's charges and reaffirmed Spain's claim to the disputed country.⁷² In the meantime, the Governor alerted the militias of the western counties and urged Colonel Cushing to evict the Spanish intruders from the area east of the Sabine. Cushing did not feel authorized to do so, since his instructions were to act on the defensive only.⁷³

Governor Claiborne was angered and embarrassed by the failure of the American forces to remove the Spanish from the disputed area and to show the Louisianians that they did not fear the military might of Spain. Only such an offensive action, he believed, could retain the loyalty and respect of the inhabitants. The Governor was evidently also worried about his own reputation. Having rushed to the frontier to activate the militia, he looked a little ridiculous when the Americans did nothing. Disgusted, Claiborne decided to

⁷¹Claiborne to Herrera, August 26, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 383-86; Louisiana Gazette, January 27, 1807.

⁷²Herrera to Claiborne, August 28, 1806, Claiborne Papers; Louisiana Gazette, January 30, 1807.

⁷³Claiborne to Dearborn, August 28, 1806, Claiborne Papers; McCaleb, Aaron Burr Conspiracy, 118-19.

return to New Orleans,⁷⁴ and to go by way of Rapides, Opelousas, and Atakapas counties to strengthen their local militias. At Rapides on September 19, 1806, the Governor conferred with General Wilkinson⁷⁵ who was en route to Natchitoches to assume command of the American forces. Wilkinson told Claiborne, "I will observe that my orders are imperative, I shall insist on the Jurisdiction of the United States Westward to the Sabine River, and if the Spanish Commander resists this claim hostilities must inevitable [sic] ensue. . . ." The General concluded by inquiring how many militiamen could be calculated on for service and how many troops of all kinds would be needed to meet the Spaniards successfully.⁷⁶

Delighted at Wilkinson's aggressive attitude, the

⁷⁴Claiborne to Mead, August 30, 1806, Claiborne Papers; Claiborne to Dearborn, September 4, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 397-99; Claiborne to Mead, September 5, 1806, ibid., IV, 1; Isaac Joslin Cox, "The Louisiana-Texas Frontier During the Burr Conspiracy," The Mississippi Valley Historical Review, X (December, 1923), 283.

⁷⁵Claiborne to Dearborn, September 18, 1806, Rowland (ed.), Claiborne's Letterbooks, IV, 7. Wilkinson was hailed as a veteran "whose valour [sic] talents and experience give us every reason to confide in his fortune," Louisiana Gazette, September 23, 1806.

⁷⁶Wilkinson to Claiborne, September 19, 1806, Rowland (ed.), Claiborne's Letterbooks, IV, 8-9. Although Wilkinson had been ordered to Natchitoches in May and received his orders in the middle of June, he delayed his journey until August. Abernethy, Burr Conspiracy, 138.

Governor promised him 450 militiamen.⁷⁷ In a later communication of that same day, Wilkinson suggested that all intercourse between the Americans and Spaniards on the frontier be interdicted except under the authority of a passport. He argued that, while not allowing Americans to enter Texas, the Dons had free entrance into the Territory of Orleans to gather information on military movements and even to purchase supplies. Wilkinson also recommended that all troops not absolutely needed for the security of other areas be sent to Natchitoches.⁷⁸ Although fearing that the imposition of trade restrictions on the Texas frontier might lead to Spanish retaliation in West Florida, Claiborne finally authorized the military to stop Spanish trade and intercourse through Natchitoches. He also promised to return to New Orleans immediately and, if all was quiet, to send the regular troops stationed there to Wilkinson.⁷⁹ On September 22, 1806, the two officials parted company.⁸⁰

⁷⁷Claiborne to Wilkinson, September 19, 1806, Rowland (ed.), Claiborne's Letterbooks, IV, 10-11. Recruiting in the western counties was so successful that 500 militiamen, including many Creoles, rendezvoused at Natchitoches, Abernethy, Burr Conspiracy, 140.

⁷⁸Wilkinson to Claiborne, September 19, 1806, Rowland (ed.), Claiborne's Letterbooks, IV, 11-12; McCaleb, Aaron Burr Conspiracy, 123-24.

⁷⁹Claiborne to Wilkinson, September 19, 1806, Rowland (ed.), Claiborne's Letterbooks, IV, 13-14; McCaleb, Aaron Burr Conspiracy, 124.

⁸⁰Claiborne to Dearborn, September 21, 1806, Rowland (ed.), Claiborne's Letterbooks, IV, 14; Claiborne to Watkins, September 21, 1806, ibid., 15; Claiborne to Mead, September 22, 1806, ibid.

After the departure of Governor Claiborne, Wilkinson was left in complete charge of military operations on the western frontier. Upon arriving at Natchitoches on September 22 and reconnoitering the area, he concluded that, with regular and militia reinforcements, he could not only drive the Spaniards across the Sabine but even take Nacogdoches. However, he would need gun carriages, vehicles, and animals before he could advance toward the Sabine.⁸¹ Meanwhile, in compliance to his orders of May 6, the General sent Governor Cordero of Texas assurances that no action would be precipitated by the American troops, unless the Spaniards violated the status quo or the rights of American citizens. Wilkinson quoted the President to the effect that the United States insisted that its territory extended westward to the Sabine, and any effort on the part of the Spanish to occupy any new position east of there would be considered "as an actual invasion of their Territorial rights, and will be resisted accordingly."⁸² Disclaiming any authority to enter into a discussion of the matter, the Spanish governor sent

⁸¹Wilkinson to Dearborn, September 27, 1806, L.R., S.W., M.S., XIV.

⁸²In concluding, Wilkinson warned "that the ultimate decision of the competent authority has been taken, that my orders are absolute, and my determination fixed to assert and under God to sustain the jurisdiction of the United States to the Sabine River against any force which may be offered to me." Wilkinson to Cordero, September 24, 1806, ibid.; Louisiana Gazette, January 30, 1807.

Wilkinson's letter to Lieutenant Colonel Herrera.⁸³

Even before receiving Wilkinson's belligerent letter, however, the Spaniards had withdrawn their troops from the area east of the Sabine. Between September 27 and 30 they moved from Bayou Pierre to a new position on the west bank of the Sabine. Despite this apparently conciliatory gesture, General Wilkinson continued his military preparations and proposed moving his troops into the region west of Natchitoches and eventually to the east bank of the Sabine River. There he expected to hear from Herrera.⁸⁴ Although the Spanish had withdrawn their forces to the west side of the Sabine, they continued to claim the Arroyo Hondo as the international boundary and to oppose Wilkinson's planned movement to the Sabine.⁸⁵

On October 23, 1806, the American forces marched to the Sabine River and on October 31 made camp opposite Colonel Herrera's force.⁸⁶ During this period, correspondence

⁸³Cordero to Wilkinson, September 29, 1806, L.R., S.W., M.S., XIV; Louisiana Gazette, January 30, 1807.

⁸⁴Wilkinson to Dearborn, October 4, 1806, L.R., S.W., M.S., XIV; Abernethy, Burr Conspiracy, 141; McCaleb, Aaron Burr Conspiracy, 136.

⁸⁵Cordero to Wilkinson, October 11, 1806, L.R., S.W., M.S., XIV. On October 17, Wilkinson informed the Secretary of War that he expected to move westward in a few days to a point opposite Herrera's army. From that point he would propose a mutual withdrawal of troops to the positions held at the time of the transfer of Louisiana to the United States. Wilkinson to Dearborn, October 17, 1806, ibid.; Wilkinson to Dearborn, October 20, 1806, ibid.

⁸⁶Wilkinson to Claiborne, November 4, 1806, ibid.

continued to flow between Wilkinson and Cordero and Herrera. In a letter of October 29 to Governor Cordero, Wilkinson made the first proposal of a neutral ground between the two provinces. He suggested that the status quo at the time of the transfer of Louisiana to the United States be restored by the American troops withdrawing to Natchitoches and the Spanish to Nacogdoches and promised to pull back his forces as soon as Herrera should break camp on the Sabine. Troops of neither nation would then enter the area between the Arroyo Hondo and the Sabine until further instructions from their respective governments.⁸⁷ The next day the General repeated his proposal to the Spanish military commander.⁸⁸ Cordero, lacking authority to negotiate, referred the matter to his superior, Salcedo.⁸⁹ Colonel Herrera, however, accepted the American proposal on November 4, 1806, and began withdrawing his troops from the Sabine two days later.⁹⁰

⁸⁷Wilkinson to Cordero, October 29, 1806, ibid.

⁸⁸Wilkinson to Cordero, October 30, 1806, ibid.

⁸⁹Cordero to Wilkinson, November 1, 1806, ibid.; McCaleb, Aaron Burr Conspiracy, 150.

⁹⁰Louisiana Gazette, November 28, 1806; Herrera to Wilkinson, December 4, 1806, L.R., S.W., M.S., XIV. Abernethy, Burr Conspiracy, 145, 157, states that Jose de Iturrigaray, Viceroy of New Spain, aided by Manuel de Godoy hoped to provoke a revolution in Mexico which would result in his becoming an independent ruler. For this reason, Iturrigaray could not punish Herrera for accepting Wilkinson's offer without chancing an exposition of his own schemes.

Wilkinson then issued orders for the withdrawal of his command,⁹¹ leaving the disputed area a Neutral Ground until the Adams-Onis Treaty of 1819 fixed the boundary permanently between Spanish Texas and the State of Louisiana.

There is some question as to why General Wilkinson, after taking such an aggressive stand, offered to compromise. His explanation was that his position was militarily difficult to maintain and the issue was of trifling importance. His primary reason for making a settlement with the Spanish however, was that he and his troops were needed in a much more critical area--New Orleans. Being aware, and probably a part, of Aaron Burr's conspiracy, after exposing Burr's schemes, Wilkinson decided that he alone could protect New Orleans from the traitor's grasp and must therefore move his army from the western frontier to the lower Mississippi River area.⁹² Although he did not know it at the time,

⁹¹Louisiana Gazette, November 28, 1806; McCaleb, Aaron Burr Conspiracy, 150.

⁹²Wilkinson to Dearborn, November 2, 1806, L.R., S.W., M.S., XIV. McCaleb, Aaron Burr Conspiracy, 148, 170, states that Wilkinson, by the fall of 1806, did not want hostilities with the Spaniards. He deliberately set out to make peace so as to play the role of hero in stopping Burr. James Wilkinson, "General James Wilkinson: A Paper Prepared and Read by his Great-Grandson James Wilkinson," reprint from The Louisiana Historical Quarterly, I (September, 1917), 43-44 denies that Wilkinson intended to attack the Spanish, then decided not to attack and to betray Burr. He argues that Wilkinson acted in accordance with his instructions from the President which if he disobeyed by acting without first attempting peaceful negotiation with the Spanish could have led to his being court-martialed and shot. Cox, "The Louisiana-Texas Frontier During the Burr Conspiracy," M.V.H.R., X, 284 states

Wilkinson's neutral ground agreement was in conformity with the policy of the War Department. On November 8, 1806, the Secretary of War directed the General to propose a written convention to the Spaniards providing for the cessation of hostilities, recognition of the Sabine River as a temporary boundary but with no occupation of posts on the Red River above Natchitoches by either party, and no erection of new posts between Natchitoches and Nacogdoches, although augmentation of existing positions was permissible. The Secretary's proposal also covered such items as Indian relations, intercourse between the Spanish and Americans, and the return of arrested citizens. As an alternative to this convention, Dearborn suggested the withdrawal of the Spanish and American troops to Nacogdoches and Natchitoches, respectively.⁹³

With the settlement of the western boundary dispute, American relations with Spain assumed a more tranquil aspect. During 1807 some troublesome issues, such as American navigation of West Florida rivers to the Gulf⁹⁴ and Spanish

that the Neutral Ground agreement "left Wilkinson free to betray Burr and to fix upon the latter the stigma of traitor."

⁹³Dearborn to Wilkinson, November 8, 1806, L.S., S.W., M.A., II, 88-90.

⁹⁴Claiborne to Madison, April 21, 1807, Rowland (ed.), Claiborne's Letterbooks, IV, 124-25; Folch to Claiborne, September 18, 1807, S.D. Territorial Papers, IX; Louisiana Gazette, October 20, 1807.

harboring of runaway slaves in East Texas,⁹⁵ remained. New issues likewise developed between the neighboring provinces such as the operation of the embargo on trade between Orleans and Spanish held West Florida. Governor Vincente Folch wanted the enforcement of the foreign trade ban relaxed in relation to West Florida, since it and Louisiana were neighboring provinces and the people of both depended upon each other for assistance. Governor Claiborne refused to alter the law because, if he did, Baton Rouge, Pensacola, and Mobile would become ports from which American goods could reach Havana and other Spanish ports, thus nullifying the embargo.⁹⁶ In the summer of 1808 another incident occurred which caused tempers to flare temporarily. Personnel from a United States gunboat and Fort Adams entered West Florida to arrest several military deserters. Governor Carlos Grand Pré immediately protested the American action; the United

⁹⁵Claiborne to Salcedo, October 1, 1807, Carter (ed.), Orleans Territory, 764-65; Freeman to Wilkinson, October, 1807, L.R., S.W., M.S., XV; Salcedo to Claiborne, January 2, 1808, Rowland (ed.), Claiborne's Letterbooks, IV, 164-65; Salcedo to Don Antonio Cowers, January 2, 1808, ibid., 166-67; Claiborne to Madison, March 14, 1808, S.D., Territorial Papers, IX; Claiborne to Salcedo, November 22, 1808, Rowland (ed.), Claiborne's Letterbooks, IV, 254-55. The fugitive slave issue was finally settled in January, 1809, when Governor Salcedo agreed to return runaway slaves. Claiborne to Madison, January 19, 1809, Rowland (ed.), Claiborne's Letterbooks, IV, 305; Claiborne to the Legislative Council and the House of Representatives, January 20, 1809, ibid., 306.

⁹⁶Folch to Claiborne, February 11, 1808, S.D. Territorial Papers, IX; Claiborne to Folch, February 16, 1808, Rowland (ed.), Claiborne's Letterbooks, IV, 159-60.

States hesitated, and then, at the direction of President Jefferson, apologized for the incident and turned the seized men over to Spanish authorities.⁹⁷ A few days later, an armed trading expedition under the command of Anthony Glass violated Spanish territory west of Louisiana.⁹⁸ Glass had a passport from John Sibley, the Indian agent, authorizing him to trade with the Pawnee Indians; however the real purpose of his expedition was to seek some silver mines that were on the Indians' lands and possibly to oppose Spanish sovereignty in the area.⁹⁹ In any case, Glass had no right to go into Spanish territory and thus threatened peaceful relations between the Americans and Dons.

The Spanish reaction to these incidents was unusually mild, for the Dons could not afford hostilities with the United States because of unstable conditions in the mother country. In 1808 Napoleon invaded Spain, deposed Charles IV,

⁹⁷Louisiana Gazette, August 9, 12, 1808; Grand Pré to Claiborne, August 3, 1808, S.D. Territorial Papers, IX; Claiborne to Grand Pré, August 31, 1808, Rowland (ed.), Claiborne's Letterbooks, IV, 197-98; Claiborne to Grand Pré, November 13, 1808, ibid., 248-49; Robert Smith to Commodore Porter, October 7, 1808, Letters Sent by the Secretary of Navy to Officers, 1798-1868 (Naval Records Collection of the Office of Naval Records and Library. File Microcopies of Records in the National Archives: M-149), VII, 144-45. Hereinafter cited as L.S., S.N.

⁹⁸John Carr to Claiborne, August 15, 1808, S.D. Territorial Papers, IX.

⁹⁹Ibid.; Claiborne to Madison, August 31, 1808, Rowland (ed.), Claiborne's Letterbooks, IV, 199-200; Sibley to Claiborne, August 15, 1808, S.D. Territorial Papers, IX.

and placed his brother, Joseph, on the Spanish throne. These actions caused the Spaniards, aided by the English, to fight Napoleon in a war which lasted until 1814.¹⁰⁰ During these years of the Peninsular War the royalist Spanish government of Mexico could not afford trouble with the United States. By March, 1809, rumors were circulating in America that Spain had fallen to Napoleon, but Mexico and other Spanish provinces refused to recognize him. They would declare their independence first.¹⁰¹ Thus there were constant threats of rebellions in Mexico and Texas against Spanish control. This restlessness also caused the Spanish authorities anxiety and deterred them from taking as strong a position with regard to American violations of Spanish sovereignty as they previously had.

Although American relations with Spain improved after 1806, those with Great Britain deteriorated primarily because of British violation of American neutral rights on the high seas. These reached a climax with the Chesapeake-Leopard affair of June 22, 1807. It produced a widespread demand for war, but President Jefferson tried to secure respect for American maritime rights by both the British and French through an embargo on all American foreign trade. The

¹⁰⁰Geoffrey Brunn, Europe and the French Imperium, 1799-1814 (New York: Harper & Brothers, 1938), 161-66.

¹⁰¹Claiborne to Robert Smith, March 19, 1809, Rowland (ed.), Claiborne's Letterbooks, IV, 332-33; Claiborne to Smith, April 21, 1809, ibid., 342-43.

embargo became law on December 22, 1807, but had little detrimental effect on the British economy or commerce. By September, 1807, there was talk of war with Great Britain in the Territory of Orleans. The Louisianians, like many of their fellow countrymen, felt that the honor and dignity of the nation must be upheld at any cost.¹⁰²

As British-American relations worsened, the United States government began military preparations to protect its harbors and ports from possible attack. One of the most important of these was New Orleans. At this time New Orleans and its vicinity were protected by a number of ancient fortifications. Forts St. Louis and St. Charles, built during the Spanish regime, fronted on the river within the city itself. Fifty miles downstream was old Fort St. Philip consisting of a battery, magazine, and barracks, all constantly requiring repairs. Opposite it was situated Fort Bourbon, which was in ruins and in danger of inundation. At the junction of Lake Pontchartrain and Bayou St. John stood still another old dilapidated works.¹⁰³

In the fall of 1807, Congress asked the Secretary of War for information on the city's defensive works, an estimate of needed repairs, and an approximation of the number of

¹⁰²Claiborne to the President, September 4, 1807, Carter (ed.), Orleans Territory, 763-64.

¹⁰³A Report of the Secretary of War, December 7, 1807, Reports to Congress, S.W., I, 53-54; a report of Colonel Armistead to Wilkinson, December 25, 1807, L.R., S.W., M.S., XV.

gunboats required for its protection. Dearborn explained that no system of fortifications alone could adequately defend New Orleans. A combination of forts, at Plaquemines, English Turn, and Bayou St. John, a suitable number of troops, and an adequate number of gunboats on the Mississippi and lakes was required for defense. In regard to the fortifications, the Secretary recommended the completion of some new works then under construction. These included a strong fortification at Plaquemine being built on the site of the old works, a battery and barracks at English Turn, about twenty miles below New Orleans, and a battery and blockhouse at the mouth of Bayou St. John. Dearborn estimated the cost of these works at \$60,000, but added, that, when properly manned and aided by sixteen gunboats, they would provide adequate defense for the city.¹⁰⁴ Several months later the Secretary increased his estimate of the cost of erecting the fortifications to \$75,000 because of the scarcity of building materials in the area. He estimated the military force in the New Orleans area at about 1,000 regulars, a militia force of between 200 and 300 effectives, and the naval force.¹⁰⁵

Governor Claiborne was of the opinion that New Orleans could be defended easily in the event of war. Fort St. Philip would protect it against attack by way of the

¹⁰⁴Dearborn to L. L. Mitchell, November 20, 1807, Reports to Congress, S.W., I, 33-34; Dearborn to Randolph, January 9, 1808, ibid., 26-27.

¹⁰⁵Ibid.

Mississippi River, while the gunboats and a strengthened Fort St. John would provide adequate security against a movement by way of the lakes north of the city. To guard against an advance by way of Bayou Teche, west of the Mississippi, Claiborne recommended the erection of a small fort on the banks of the bayou.¹⁰⁶

While the defense of New Orleans was being readied, in May, 1807, General Wilkinson left under orders from the War Department to appear in Richmond for the trial of Aaron Burr. Before his departure he placed Lieutenant Colonel Thomas Cushing in command at New Orleans and moved Lieutenant Colonel Freeman to Natchitoches.¹⁰⁷ By October, 1807, Colonel Cushing had taken command in Mississippi Territory and was replaced by Major William MacRea, who remained as commanding officer at New Orleans until he was removed by Wilkinson in October, 1808.¹⁰⁸ During the months of MacRea's command the War Department made every effort to erect new fortifications and repair old ones in the vicinity of New Orleans.

The construction of the new fortifications in the territory was placed immediately in the hands of experienced

¹⁰⁶Claiborne to Dearborn, December 11, 1807, L.R., S.W., M.S., V.

¹⁰⁷Dearborn to Wilkinson, April 10, 1807, L.S., S.W., M.A., III, 161; Wilkinson to Dearborn, May 9, 1807, L.R., S.W., M.S., XV.

¹⁰⁸William MacRea to Dearborn, May 8, 1808, L.R., S.W., M.S., XXVI.

military engineers. In the spring of 1808 Secretary Dearborn ordered Colonel John Foncin to New Orleans to aid Captain Armistead in erecting the works. In April, both men resigned and left the territory.¹⁰⁹ Surprised by Colonel Foncin's unexpected departure, Dearborn did not have time to send another engineer to New Orleans. He therefore ordered Colonel MacRea to assume superintendence of the fortifications and if possible to hire an engineer in the city.¹¹⁰ The Secretary of War also ordered Abraham D. Abrahams, the military agent in New Orleans, to cooperate in every possible way to complete the fortifications.¹¹¹ In compliance with his orders, Major MacRea collected materials for the new works and hired a civilian engineer to direct their erection.¹¹²

By November of 1808, the work on the fortifications was well advanced. Fort St. Charles was in a good state of repair and well armed with cannon. The fort at Bayou St. John was nearly completed on the same site as the older installation. Although the battery at English Turn had just been started, it was expected to be finished by the end of

¹⁰⁹Claiborne to the Secretary of War, July 11, 1808, ibid., XIX.

¹¹⁰Secretary of War to MacRea, June 6, 1808, ibid., XXVI.

¹¹¹John Smith to MacRea, August 20, 1808, ibid.

¹¹²MacRea to the Secretary of War, July 10, 1808, ibid.

December. The works at Plaquemine were well on the way to completion with many of its cannon ready for action. The work on Fort St. Philip was lagging and was not completed until June, 1810.¹¹³

While fortifications in the New Orleans area were being erected or repaired, other preparations for war were also being made. In March, 1808, Congress authorized the President to place on a standby basis part of the militias of the states and territories. In this activation, the quota of the Territory of Orleans was 873 men.¹¹⁴ The following December, the Secretary of War ordered regular army reinforcements, consisting of infantry, artillery, dragoon, and riflemen units, to New Orleans. He directed General Wilkinson to provide transportation for these troops and then to proceed immediately to New Orleans to take command of them. Wilkinson's instructions called for defending the city against any invading force whatever and authorized him to request militia detachments of the Orleans and Mississippi territories if needed. He was also warned specifically

¹¹³MacRea to the Secretary of War, November 16, 1808, ibid.; MacRea to the Secretary of War, June 30, 1810, ibid., XXXVIII.

¹¹⁴General Orders, December 23, 1808, Carter (ed.), Orleans Territory, 813-14; Claiborne to the Secretary of State, December 27, 1808, Rowland (ed.), Claiborne's Letter-books, IV, 278; Louisiana Gazette, December 30, 1808.

to attend carefully to the health of the troops.¹¹⁵

Within a month of Dearborn's orders and the activation of the Orleans militia, local newspapers in New Orleans were circulating a report that 4,000 troops from Halifax under General George Prevost were on their way to New Orleans, but that several thousand American troops were also marching to the city to defend it.¹¹⁶ By April, 1809, some 2,000 American troops had arrived in the city. Many of them were quartered in private dwellings, since the public barracks could not accommodate them.¹¹⁷ On reaching New Orleans on April 19, 1809, Wilkinson found the military situation deplorable. Military Agent Abrahams had resigned and planned to return to Washington. Since only the military agent could authorize payment of bills against the War Department, Wilkinson persuaded Abrahams to continue in office to keep the military establishment functioning. The troops were raw, undisciplined recruits who soon became dissipated in New Orleans. Sickness was widespread among them. Some 400 were ill when Wilkinson arrived and needed to be moved into a summer camp outside of the city. Commodore Porter had been given an independent naval command at New

¹¹⁵Dearborn to Wilkinson, December 2, 1808, L.S., S.W., M.A., IV, 7; James Wilkinson, Memoirs of My Own Times (3 vols.; Philadelphia: Abraham Small, 1816), II, 342-43.

¹¹⁶Courier de la Louisiane (New Orleans), January 23, 1809; Louisiana Gazette, January 20, 1809.

¹¹⁷Claiborne to the Secretary of War, April 2, 1809, Carter (ed.), Orleans Territory, 833.

Orleans and this irritated Wilkinson. He refused to submit a copy of his orders to Porter and requested immediate instructions from the War Department delineating his and Porter's authority and powers. While disclaiming any desire for complete control of the river flotilla, the General did want authority to order Captain Porter to cooperate with him in the defense of the territory. Wilkinson also pointed out that there were no arms or military supplies in store in New Orleans and no land or water transport for the troops.¹¹⁸

The large number of soldiers in New Orleans who were ill proved a very serious problem. Upon receiving reports from there showing as many as one-fourth of the troops sick, Secretary of War William Eustis ordered General Wilkinson to commence, if he had not already done so, a removal of the troops to the high, healthy ground in the rear of Fort Adams, or to Natchez, or both, if he felt it desirable. "The primary object," he wrote Wilkinson, "will be to preserve the health and lives of the Men, next to have them so

¹¹⁸Wilkinson, Memoirs, II, 346-47; Wilkinson to the Secretary of War, April, 1808, L.R., S.W., M.S., XXXIII. The conflict between the army and navy commanders began when Captain Porter wrote Wilkinson requesting information on the plans of the government in stationing such a large force in New Orleans. The Captain expected to leave the city shortly to examine and clear, if possible, Bayou Manchac, an operation which would require two or three weeks. He also contemplated situating his boats away from New Orleans so as to preserve the health of the crews. In order to cooperate fully, Porter demanded to know Wilkinson's orders before he left the city. Wilkinson refused the request. Porter to Wilkinson, April 20, 1809, ibid., XXXIII; Wilkinson to Porter, April 22, 1809, ibid.; Porter to Wilkinson, April 22, 1809, ibid.

quartered as will best admit of a regular system of order, government, and discipline, with as much economy as practicable."¹¹⁹

Before receiving Eustis's letter, the General had moved his men out of New Orleans, but not to the Mississippi Territory, as the Secretary suggested. Instead, he chose as his summer encampment a low, marshy site on Terre aux Boeufs, a bayou emptying into the Mississippi River about twelve miles south of New Orleans. Upon arriving at the mouth of the Mississippi, April 13, 1809, Wilkinson had notified the Secretary of War that "the health, morals, and discipline of the troops" required their removal from New Orleans.¹²⁰ He spent May reconnoitering the vicinity of New Orleans for a camp site,¹²¹ and on May 29 chose Terre aux Boeufs which was recommended by both Americans and Creoles as being healthy.¹²² Wilkinson admitted that Terre aux Boeufs had disadvantages as a camp site. It was three feet below the level of the Mississippi River, although protected by levees. It was private land, which would entail the expense of leasing it, and its nearness to New Orleans would still allow that city to distract the troops. On the other

¹¹⁹Eustis to Wilkinson, April 30, 1809, L.S., S.W., M.A., IV, 93; Wilkinson, Memoirs, II, 375-76.

¹²⁰Wilkinson, Memoirs, II, 344-45.

¹²¹Ibid., 347-48, 358-59.

¹²²Ibid., 358-59.

hand, the proposed site was healthy, contained a good source of water and nearness to market, and provided defense for New Orleans.¹²³ On June 3, Wilkinson moved nine companies to Terre aux Boeufs to begin the new camp.¹²⁴

On June 14, Wilkinson received the Secretary of War's order of April 30.¹²⁵ Still he stubbornly held to his decision to continue the camp at Terre aux Boeufs. To remove the soldiers to Natchez or Fort Adams by water, he held, would endanger the health of nine-tenths of the troops because of the long, slow voyage and the season, and the Mississippi area might be as sickly as the lower river. Furthermore, the expense of such a movement would amount to between twelve and twenty thousand dollars, and New Orleans would be left unprotected. The movement to Terre aux Boeufs, on the other hand, had caused no inconvenience or discomfort to the troops, the expense was negligible, and New Orleans was still protected. The outlook, according to the General, was for a healthy season. Vegetables, milk, eggs, and fowl were readily available in the nearby town of Terre aux Boeufs, and Wilkinson planned to ban the use of ardent spirits while encouraging the use of malt liquors and red wines.¹²⁶ Rejecting Wilkinson's arguments in defense of the

¹²³Ibid., 359.

¹²⁴Ibid., 361.

¹²⁵Ibid., 375; American State Papers, Military Affairs, I, 269.

¹²⁶Wilkinson to Eustis, June 18, 1809, L.R., S.W., M.S., XXXIII.

camp at Terre aux Boeufs, on June 22, 1809, Secretary Eustis repeated his orders to the General to remove the troops to Natchez or Fort Adams and instructed the Navy Department to provide the necessary transportation. It was nearly a month before Wilkinson received the Secretary's letter.¹²⁷

The troops at Terre aux Boeufs remained fairly healthy through June with the number of sick actually declining, but in July the summer rains began, and the sick lists and mortality rates began to rise. General Wilkinson denied that the camp site had anything to do with it, and blamed the sickness on the lack of fresh provisions, the absence of qualified medical aid, the change of climate, and the neglect of internal police regulations in the camp. He reported that no change of location could be effected until September or October unless demanded by an outbreak of fatal contagious disease.¹²⁸

By July conditions in camp Terre aux Boeufs were appalling. The troops' physical ailments were chronic diarrhea, bilious and intermittent fevers, and scurvy. Some of the men had been afflicted with diarrhea from their arrival on the lower Mississippi. It was believed to be caused by the change of climate and polluted drinking water,

¹²⁷Eustis to Wilkinson, June 22, 1809, L.S., S.W., M.A., IV, 143-44; American State Papers, Military Affairs, I, 270.

¹²⁸Wilkinson to the Secretary of War, July 2, 1809, L.R., S.W., M.S., XXXIII; Wilkinson to Eustis, July 9, 1809, ibid.

and it accounted for three-fourths of the deaths at the camp. Bilious and intermittent fevers were more common in the summer camp than in New Orleans, but were less often fatal there than in the city. There were only a few cases of scurvy. Many of the fatalities were caused by a lack of provisions, proper medical attention, hospital stores, and medicines.¹²⁹ However, much of the distress was also due to the "filth and nastiness" which abounded in the camp. Sanitary regulations were completely ignored and even the dead were buried in such shallow graves as to give a stench to the camp.¹³⁰

In the midst of this crisis, Secretary Eustis again ordered Wilkinson to break camp and move his troops upriver predicting that if he waited until September or October so many men would be sick that a removal would not be practicable.¹³¹ Finally on July 23, Wilkinson acknowledged receipt, three days earlier, of the Secretary of War's

¹²⁹A Report of the diseases of Camp Terre aux Boeufs, their causes, character, and mode of treatment, William Upshaw, July 19, 1809, L.R., S.W., M.S., XXXIII. John Duffy, The Rudolph Matas History of Medicine in Louisiana (2 vols.; Baton Rouge: Louisiana State University Press, 1958-1962), I, 467-69 states that fevers, dysentery, and especially scurvy took a heavy toll among the soldiers at Terre aux Boeufs. Duffy quotes Surgeon Jabez Heustis of the Second Regiment in presenting an almost unbelievably disgusting account of the sufferings of the troops.

¹³⁰John T. Bentley to Colonel Beal, July 12, 1809, L.R., S.W., M.S., XXXIII.

¹³¹Eustis to Wilkinson, July 15, 1809, L.S., S.W., M.A., IV, 178.

second order to remove the troops.¹³² Although he would have preferred to remain at Terre aux Boeufs, the General began to make immediate preparations for the removal of the men to Natchez and Fort Adams. He contacted Captain Porter, who had been ordered to provide him with gunboats to transport the troops, and instructed Colonel Cushing to seek appropriate land for a camp near Columbian Springs or the town of Washington in Mississippi Territory.¹³³ Although Porter promised to put one bomb ketch and twelve gunboats at the General's disposal,¹³⁴ by late August, the gunboats were still not ready.¹³⁵ Finally, however, some of the gunboats arrived, and they, together with several barges and private vessels hired by Wilkinson, were ready to move the soldiers to their new camp.¹³⁶

The evacuation of Terre aux Boeufs began on September 10, 1809. Within ten days the army was encamped opposite New Orleans. Leaving the critically ill there, the troops

¹³²Wilkinson to the Secretary of War, July 23, 1809, L.R., S.W., M.S., XXXIII.

¹³³Paul Hamilton to Porter, June 22, 1809, L.S., S.N., XIII, 402; Wilkinson to Porter, July 21, 1809, L.R., S.W., M.S., XXXIII; Wilkinson to Cushing, July 21, 1809, ibid.

¹³⁴Porter to Wilkinson, July 20, 1809, L.R., S.W., M.S., XXXIII.

¹³⁵Wilkinson to the Secretary of War, August 19, 1809, ibid.

¹³⁶Wilkinson to the Secretary of War, August 27, 1809, ibid.

renewed their ascent of the Mississippi. The sick and convalescent crowded on boats while the fit men marched along the river bank. As described by one of the participants, it was a veritable death march:

There was no other battle, with any visible foe. Grim Death, continued to wage with out cessation his destructive wars. Against this foe, our troops could only shew [sic] their courage, without evincing their prowess [sic]. The army had now become extremely expert in the performance of funeral ceremonies. In the morning, the first duty was, to bury the dead. In the evening the first duty was, to bury the dead. For the sake of economy, and conciseness of operation, the deceased being placed about one foot in the ground, was covered with his blanket, and hid by a few spades of earth--the cheapest and most speedy work imaginable.¹³⁷

Of the 935 men who made the trip, 638 were sick and 240 died by the time they reached Natchez at the end of October.¹³⁸

The total number of troops under Wilkinson's command in the dreadful summer of 1809 was 1,953. Of this number, 764 died and 166 deserted, making a loss of nearly fifty per cent.¹³⁹ As a result of this catastrophe, in September, 1809, the Secretary of War recalled Wilkinson to Washington

¹³⁷Weekly Chronicle (Natchez), December 16, 1809.

¹³⁸Francois-Xavier Martin, The History of Louisiana From the Earliest Period (2nd ed.; New Orleans: Pelican Publishing Company, 1963), 346.

¹³⁹Ibid.; American State Papers, Military Affairs, I, 270 cites 686 deaths, 108 desertions, and 58 discharges in the "additional military force" for New Orleans between May 1, 1809 and February 18, 1810, leaving an effective force of 1,184 men.

and replaced him with General Wade Hampton.¹⁴⁰ Hampton assumed command at Natchez on December 19.¹⁴¹

When the disaster at Terre aux Boeufs became known, Wilkinson came under heavy criticism in the press, especially in Orleans,¹⁴² and Congress made an investigation of the entire situation. On March 13, 1810, the House of Representatives appointed a committee to inquire into the causes of the great mortality among the troops at New Orleans. On April 27, Thomas Newton, representative from Virginia and chairman of the committee, reported the results of the investigation together with numerous letters and depositions taken as testimony. According to the committee's conclusions, the mortality at Terre aux Boeufs was due to raw recruits being sent there, the insalubrity of the climate, an undesirable camp site retained during the entire summer against the orders of the Secretary of War, a lack of good provisions and vegetables, inadequate hospital facilities, stores, and

¹⁴⁰Eustis to Wilkinson, September 10, 1809, L.S., S.W., M.A., IV, 206; Eustis to Hampton, September 10, 1809, *ibid.* Wilkinson, "General James Wilkinson," L.H.Q., I, 78, exonerates Wilkinson from blame for the lack of proper supplies for the troops. "The penurious administration of Madison let an army suffer and die all summer, in spite of Wilkinson's solemn warning, because they were too ignorant and mean to protect that army from disease and death."

¹⁴¹Hampton to the Secretary of War, December 19, 1809, L.R., S.W., M.S., XXIII.

¹⁴²Louisiana Gazette and New Orleans Daily Advertiser, May 18, June 21, 28, July 28, August 27, September 1, October 8, 1810.

medicines, excessive fatigue duties in clearing and draining the camp site, the lack of mosquito nets and good tentage, the impracticability of proper sanitation, and the quartering of sick and well men together.¹⁴³ On May 1, Congress adjourned, but when it reassembled again in December, the committee resumed its investigation. On February 27, 1811, it presented the same report as in the previous session. One committee member, William Crawford of Pennsylvania, dissented from the majority opinion stating that the site of Terre aux Boeufs was not one of the causes of the mortality and that Wilkinson had not disobeyed the Secretary of War's orders in removing the troops there. The report was never sent to President Madison.¹⁴⁴

To clear his name permanently of the charges of disobedience of orders and neglect of troops under his command at Terre aux Boeufs, as well as charges that he had been a pensioner of Spain and a co-conspirator of Burr, Wilkinson requested a court-martial. Opening on September 4, 1811, at Frederick-Town, Maryland, it continued until December 25, when the court gave a definitive sentence. The charges against Wilkinson were: (1) being a pensioner of Spain; (2) cooperating with the Spanish government of Louisiana in

¹⁴³Annals of Congress, 11 Cong., 2 sess., 1997; American State Papers, Military Affairs, I, 268-95.

¹⁴⁴James Ripley Jacobs, Tarnished Warrior: Major-General James Wilkinson (New York: The Macmillan Company, 1938), 265.

designs to dismember the Union; (3,4,5) involvement with Burr in his treasonable conspiracy; (6) disobedience of orders; (7) neglect of duty; and (8) misapplication and waste of public money and supplies. The charges of disobedience of orders and neglect of duty involved the Terre aux Boeufs episode. The court acquitted the General of the charge of disobeying the Secretary of War's orders of April 30, 1809, on the ground that the orders did not arrive at New Orleans until after the removal of the troops to Terre aux Boeufs. The court also found Wilkinson not guilty of the charge of neglect of duty at the summer encampment. The rest of the charges resulted in similar verdicts because of a lack of evidence supporting them.¹⁴⁵ On February 14, 1812, President Madison approved the findings of the court-martial and ordered Wilkinson's sword returned to him.¹⁴⁶

The years 1810 and 1811 were relatively quiet ones militarily and diplomatically in the Territory of Orleans. The only major exception was the excitement caused by the American seizure of a part of Spanish West Florida in 1810. Miguel Hidalgo, a native-born priest, led a revolution against royalist authority in Mexico in 1810. Following Napoleon's invasion of Spain in 1808, Spain's American

¹⁴⁵Wilkinson, Memoirs, II, 35-40, 565-74.

¹⁴⁶Ibid., 576; Jacobs, Tarnished Warrior, 274; Thomas Robson Hay, "Some Reflections on the Career of General James Wilkinson," The Mississippi Valley Historical Review, XXI (March, 1935), 482.

colonies determined not to submit to French rule but to remain loyal to Ferdinand VII. Numerous so-called patriotic societies dedicated to the support of the legitimate Spanish sovereign sprang up in Mexico, but the local Spanish authorities suspected that their ultimate objective was independence. Hidalgo led one of the native groups. When the Spanish officials decided to arrest him for treason, Hidalgo resisted. In November, 1810, and January, 1811, his forces suffered decisive defeats, and in the summer of 1811 Hidalgo was shot as a rebel.¹⁴⁷ Simultaneously with Hidalgo's movement in Mexico, a revolution developed in Texas led by Juan Bautista de las Casas, a retired army captain. Las Casas was more successful than Hidalgo in that he captured Governor Manuel Maria de Salcedo and Lieutenant Colonel Simon de Herrera and then declared himself governor of Texas. His rule, however, was so harsh and despotic that a counter-revolutionary movement soon arose. Las Casas fell from power and was executed in August, 1811.¹⁴⁸ These events in the neighboring Spanish provinces did not escape the attention of Governor Claiborne, who reported them to Robert Smith, Secretary of State. As Spain's grip on her colonies and her monopolistic trade policies seemed to be weakening, Claiborne felt that the United States should remain watchful

¹⁴⁷Webb (ed.), Handbook of Texas, I, 806.

¹⁴⁸Ibid., 305; Courier de la Louisiane, February 25, 1811.

lest England monopolize their trade.¹⁴⁹ He also sympathized with Hidalgo's revolution because he thought it republican in nature.¹⁵⁰

While the Spanish authorities were threatened by revolutions within their provinces, they were also disturbed by settlements which had been made in the Neutral Ground in violation of the Wilkinson-Herrera agreement of 1806. Most of the illegal settlements were the work of John Sibley, American Indian agent, who had lands which he claimed in the area surveyed and then sold them to settlers.¹⁵¹ To preserve the 1806 settlement, Governor Salcedo suggested that a joint Spanish-American expedition forcibly remove the intruders,¹⁵² and Colonel Thomas Cushing, acting in place of General Hampton, approved.¹⁵³ On his referring the matter to the Secretary of War, in May, he ordered the commanding officer at Natchitoches to dispatch a number of troops equal to the Spanish force to remove intruders from the area between the

¹⁴⁹Claiborne to Smith, January 4, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 65.

¹⁵⁰Claiborne to Monroe, May 18, 1811, S.D. Territorial Papers, XII.

¹⁵¹Charles Woolstonecraft to Cushing, June 12, 1810, L.R., S.W., M.S., XXXV; Woolstonecraft to Cushing, July 21, 1810, ibid.

¹⁵²Woolstonecraft to Hampton, April 16, 1810, ibid.

¹⁵³Cushing to the Secretary of War, April 24, 1810, ibid.

Sabine River and the Arroyo Hondo.¹⁵⁴ On August 1, the two forces met at Bayou Pradra and proceeded to move thirty-four people and to burn twelve habitations in the Neutral Ground, but left the corn and cattle undisturbed on the owners' promise that they would remove them.¹⁵⁵

By 1812 the Neutral Ground was once again a haunt for all types of desperate men, especially armed robbers who preyed on the flourishing commerce between Texas and Natchitoches.¹⁵⁶ Several robberies took place in the Neutral Ground, and the merchants of Natchitoches petitioned Claiborne to restore order in the area. On the Governor's appealing to General Hampton for assistance, he sent a force under Lieutenant Colonel Zebulan Pike to Natchitoches to make arrangements with the Spanish authorities for another joint expedition.¹⁵⁷ The Spanish commandant at Nacogdoches

¹⁵⁴Secretary of War to Cushing, May 24, 1810, L.S., S.W., M.A., VI, 358.

¹⁵⁵Salcedo to Woolstonecraft, July 17, 1810, L.R., S.W., M.A., XXXV; Woolstonecraft to A. W. Magee, n.d., ibid.; Magee to Woolstonecraft, August 10, 1810, ibid.

¹⁵⁶In describing the Neutral Ground, Isaac Joslin Cox, "The Significance of the Louisiana-Texas Frontier," Proceedings of the Mississippi Valley Historical Association (1909-1910), 209 states, "Into the intervening neutral ground, supposedly abandoned by both nations for the time being only . . . there immediately flocked every species of outlaw, forming a motley population that speedily acquired an unsavory reputation on either side of the line."

¹⁵⁷John Sibley to Hampton, August 26, 1811, L.R., S.W., M.S., XLIV; Claiborne to Hampton, January 20, 1812, ibid.; Claiborne to Monroe, January 24, 1812, S.D. Territorial Papers, XIII; Claiborne to Hampton, January 20, 1812, ibid.; Hampton to Pike, February 6, 1812, L.R., S.W., M.S., XLV.

lacking authority to act immediately,¹⁵⁸ Pike sent an eighty-man American force under Lieutenants A. W. Magee and Elijah Montgomery to remove the intruders and either apprehend or disperse the armed bandits.¹⁵⁹ The troops left Fort Claiborne on March 4, 1812, and spent two weeks traversing the Neutral Ground burning houses and arresting robbers. Pike ordered the bandits taken by Magee incarcerated at Fort Claiborne for two months and then turned over to the civil authorities who he hoped would bring them quickly to trial as a deterrent to any future violation of the Neutral Ground.¹⁶⁰ Pike also authorized the commandant at Fort Claiborne to provide an escort, on request of fifteen or more persons, American or Spaniards, wishing to traverse the area between the Sabine and the Arroyo Hondo.¹⁶¹ Pike's actions, however, were futile, and the Neutral Ground remained an outlaw area until it was incorporated into the United States in 1821.

¹⁵⁸Later he accepted the American offer, but the raid had already taken place. Montero to Wilkinson, n.d., L.R., S.W., M.S., XLV.

¹⁵⁹Pike to Hampton, March 26, 1812, ibid.; Montero to Pike, March 1, 1812, ibid.; Pike to Magee, March 3, 1812, ibid.

¹⁶⁰Pike to Captain Walter H. Overton, March 16, 1812, ibid.

¹⁶¹Pike to Herrera, March 16, 1812, ibid.

CHAPTER XIII

THE BURR MENACE IN THE TERRITORY OF ORLEANS

Although foreign threats to the safety of the Territory of Orleans existed intermittently, the greatest source of anxiety among the Louisianians was the expected invasion of Aaron Burr and his armed followers in December, 1806.¹ This event affected the everyday lives of the inhabitants and endangered the processes of free civil government in the territory. Panic reigned in New Orleans as the people prepared to meet an invasion that never materialized. The person primarily responsible for the hysteria was General Wilkinson, who assumed control of the military forces and illegally used his authority as commanding general to establish unproclaimed martial law in New Orleans. Claiborne for the most part sat back idly watching the General, objecting infrequently to his assumption of authority, but doing nothing to stop him. The judiciary likewise made only half-hearted attempts to oppose Wilkinson.

¹It is not the purpose of this study to discuss the ultimate objectives of Aaron Burr in his western movements nor to describe events after his arrest in Mississippi Territory. Emphasis will be placed on events in the Territory of Orleans, popular reaction to them, and their consequences.

As far as many of the people were concerned Wilkinson was much more to be feared than Aaron Burr. An invasion by Burr was an anticipated danger, while Wilkinson seemed to be a real enemy within their midst. Secrecy on the part of government officials defending New Orleans heightened and, to some extent, even created fear and panic in the minds of many of the citizens. Not knowing exactly what the danger to the city was, they naturally could not understand what seemed to be unnecessary defensive measures. Later, upon becoming apprised of Burr's threat, some Louisianians praised Claiborne and Wilkinson for their efforts in defending the city, while others felt that they had exceeded their authority and used unlawful means in opposing Burr.

The Orleans phase of the Burr conspiracy began in the fall of 1806 when General Wilkinson was poised on the western frontier to resist Spanish encroachment on American-held territory. While he was at Natchitoches, a messenger, Samuel Swartwout, arrived at the General's camp with a coded letter dated July 29, 1806, from Burr, containing his latest plans. In the communication, Burr stated that he had obtained funds for his expedition and was promised the cooperation of a British and an American naval fleet. He planned to leave Philadelphia on August 1, proceed to the Falls of the Ohio, gathering men, supplies, and boats on the way, and expected to arrive at Natchez by the middle of December to rendezvous with the General for the purpose of finalizing

plans. By this time Burr's designs seemed to have included the revolutionizing of Louisiana and the invasion of Mexico, by way of the Sabine, with the aid of Wilkinson's troops.² On October 21, 1806, General Wilkinson betrayed Burr by revealing his plans to President Jefferson.³ The Chief Executive received the General's letter on November 25, confirming some earlier information which had reached Washington.⁴ Two days later, the President issued a proclamation warning citizens of the United States against the Burr enterprise and calling on federal, state, and local military and civil officials to be alert in breaking up the conspiracy by all lawful means.⁵

²Thomas Perkins Abernethy, The South in the New Nation, 1789-1819 (Baton Rouge: Louisiana State University Press, 1961), 279-80.

³Wilkinson sent a translation of Burr's letter to the President in which he made erasures and alterations so as not to implicate himself. Later he made other translations of the document, each differing from the others. Nathan Schachner, Aaron Burr: A Biography (New York: Frederick A. Stokes Company, 1937), 322-23; Wilkinson to Jefferson, October 21, 1806, United States Department of State Letters in Relation to the Burr Conspiracy, 1806-1808 (Division of Manuscripts, Library of Congress). Hereinafter cited as S.D. Burr Conspiracy Letters.

⁴James D. Richardson (ed.), A Compilation of the Messages and Papers of the Presidents, 1789-1902 (10 vols.; New York: Bureau of National Literature and Art, 1903), I, 413-14; Thomas Perkins Abernethy, The Burr Conspiracy (New York: Oxford University Press, 1954), 84-87.

⁵Richardson (ed.), Messages and Papers of the Presidents, 404-405. Jefferson's proclamation did not mention Burr by name or a plot to separate the western states from the Union.

General Wilkinson, however, did not wait for the presidential proclamation to rush to the defense of his country. On November 4, 1806, while still at Natchitoches, he notified the Secretary of War, Henry Dearborn, that he was opening negotiations with the Spanish for an agreement over the disputed western boundary, since his presence and his troops were needed in New Orleans "where a deceitful calm at the present prevails." Explaining the need for his acting without orders from the War Department, Wilkinson declared

. . . yet I will repose confidently on the liberality and candor of the Executive to justify such measures of prevention and defense as may be deemed essential to the National Weal because to wait for orders at a Thousand miles distance in a moment of well founded apprehension and to sacrifice a high and important trust to a timid person might be fairly interpreted into a species of misprision of treason for which I can never be suspected by the intelligent, honorable and virtuous who know me.⁶

Wilkinson acted quickly and decisively to meet the threat of an attempt by Burr to seize control of New Orleans. He was convinced that New Orleans was the chief objective of the Burr expedition. "You are surrounded by danger of which you dream not and the destruction of the American union is seriously menaced," Wilkinson wrote Claiborne. "The Storm

⁶Wilkinson to the Secretary of War, November 4, 1806, Letters Received by the Secretary of War, Main Series, 1801-1870 (Records of the Office of Secretary of War. File Microcopies of Records in the National Archives: No. M-221. Microfilm in possession of author), XIV. Hereinafter cited as L.R., S.W., M.S.

will probably burst on New Orleans, when I shall meet it & triumph or perish."⁷ He ordered all troops in Orleans and Mississippi territories, except one company of infantry and fifteen artillerists at Natchitoches and one subaltern and twenty-five men at Mobile, to concentrate at New Orleans. He requested 500 militiamen to march to the city from Cowles Mead, secretary and acting governor of the Mississippi Territory, but since he would give no reason for needing the men, Mead refused. He prepared to position gunboats strategically on the Mississippi and lakes, and proposed repairing the old fortifications in New Orleans. Wilkinson estimated that he would need a force of 4,000 veteran troops to defend New Orleans, but had only one-fourth that number, and could not depend on the militias of the two territories for much help.⁸

⁷Wilkinson to Claiborne, November 12, 1806, Dunbar Rowland (ed.), Official Letterbooks of W. C. C. Claiborne, 1801-1816 (6 vols.; Jackson: State Department of Archives and History, 1917), IV, 55-56; Claiborne to the Secretary of State, November 19, 1806, S.D. Burr Conspiracy Letters; Wilkinson to Claiborne, November 12, 1806, James Wilkinson, Memoirs of My Own Times (3 vols.; Philadelphia: Abraham Small, 1816), II, 328-29.

⁸On December 1, John Graham, who had been sent by Jefferson to watch Burr's movements in the West, reported to Governor Edward Tiffin of Ohio that Burr's objective was to seize two million dollars in the bank and treasury, United States military stores, and French artillery in New Orleans. Abernethy presents other reasons for Wilkinson's decision to concentrate his forces at New Orleans. Wilkinson believed that Burr had the aid of a British fleet which could only be stopped at New Orleans or Plaquemines. He also expected a coup d'état in the city. Abernethy, Burr Conspiracy, 105, 165-66; Wilkinson to Dearborn, November 12, 1806, L.R., S.W., M.S., XIV.

Wilkinson's defensive plan made no provision for defending any of the outlying areas since he believed that if the capital was held, they could always be regained if lost temporarily to the enemy. If on the other hand, the military forces were scattered to protect outlying settlements, they could be defeated one by one, and all would be lost.⁹ Wilkinson also feared that Burr's army might provoke a revolt among the Negro slaves in the vicinity of New Orleans which would require the presence of the militia.¹⁰ Claiborne did not agree with the General's dispositions. He suggested that the militia make a stand on the Mississippi some distance above New Orleans. Meeting the conspirators there, he argued, would prevent Burr's accomplices in New Orleans from hindering the military effort.¹¹ The Secretary of War made no comment on the situation at all until January 15, 1807, and even then he left all defensive preparations to Wilkinson's own discretion.¹²

While Wilkinson was preparing to defend New Orleans and warning Claiborne of the threat which Burr posed for the

⁹Wilkinson to Dearborn, November 12, 1806, L.R., S.W., M.S., XIV.

¹⁰Walter Flavius McCaleb, The Aaron Burr Conspiracy (New York: Dodd, Mead, and Company, 1903), 206.

¹¹Wilkinson to Claiborne, December 6, 1806, Rowland (ed.), Claiborne's Letterbooks, IV, 47; Claiborne to Madison, December 4, 1806, ibid., 47-48.

¹²Wilkinson to Dearborn, January 16, 1807, L.R., S.W., M.S., XIV.

city, General Andrew Jackson was warning the Governor about Wilkinson. Wrote Jackson on November 12, "Be upon the alert - keep a watchful eye on our General - and beware of an attack, as well from your own Country as Spain, I fear there is something rotten in the State of Denmark - you have enemies within your own City, that may try to subvert your Government and try to separate it from the Union."¹³ Shortly thereafter, Cowles Mead wrote Claiborne, "It is believed here that General Wilkinson is the soul of the conspiracy."¹⁴ It is not surprising that at this point Governor Claiborne did not know whom to trust or what to believe. All that he knew was that a conspiracy detrimental to the interests of the United States had been formed and that influential men were involved in it, but he had no particulars of it.

On November 25, 1806, Wilkinson arrived in New Orleans from the frontier.¹⁵ Initially he was received warmly by

¹³Andrew Jackson to Claiborne, November 12, 1806, "Letters Concerning the Aaron Burr Conspiracy, Which Appear in the Executive Journal of Governor William C. C. Claiborne and Which Are on File in the Mississippi Department of Archives and History," Mississippi Department of Archives and History, Annual Report, III (1903-1904), Appendix, 124-25.

¹⁴Mead to Claiborne, November 26, 1806, Territorial Papers: Orleans Series, 1794-1813 (General Records of the Department of State. File Microcopies of Records in the National Archives: No. T-260. Microfilm in the New Orleans Public Library, New Orleans, Louisiana), IX. Hereinafter cited as S.D. Territorial Papers.

¹⁵Claiborne to Madison, November 25, 1806, Rowland (ed.), Claiborne's Letterbooks, IV, 37; Louisiana Gazette (New Orleans), November 28, 1806. Thomas Robson Hay and M. R. Werner, The Admirable Trumpeter: A Biography of

the people.¹⁶ Governor Claiborne, after talking to the General, assured the Secretary of State that "General Wilkinson and myself, will, to the best of our judgement and abilities support the honor and welfare of our country."¹⁷ Early in December, Wilkinson met with Claiborne and Captain John Shaw, naval commander at New Orleans, to disclose Burr's plans to them. He read them Burr's dispatch of July 29 and declared that Swartwout had told him Kentucky, Tennessee, and Ohio would separate from the Union and that Louisiana would be revolutionized. Burr, supported by the French in the city, would seize the money in New Orleans' banks. His agents--Spence, Ogden, and Bollman--were already in the city.¹⁸

Wilkinson immediately began strengthening the defenses of the city. He ordered the old forts rebuilt and repaired,

General James Wilkinson (Garden City, New York: Doubleday, Doran, & Company, Inc., 1941), 262, declare that Wilkinson had two reasons for going to New Orleans--to get rid of Claiborne as governor and to seize civil and military control of the city.

¹⁶James W. Winston (ed.), "A Faithful Picture of the Political Situation in New Orleans at the Close of the Last and the Beginning of the Present Year, 1807," The Louisiana Historical Quarterly, XI (July, 1928), 375; Louisiana Gazette, November 28, 1806.

¹⁷Claiborne to the Secretary of State, November 25, 1806, Clarence E. Carter (ed.), Orleans Territory, 1803-1812 (Volume IX of Territorial Papers of the United States (Washington: Government Printing Office, 1940), 689.

¹⁸Important Statement by Claiborne and Shaw, December 3, 1806, Rowland (ed.), Claiborne's Letterbooks, IV, 38-40.

the city picketed, and gunboats stationed at the mouth of the Mississippi.¹⁹ The repairing of at least one of these fortifications, however, caused fear and wonderment among the citizens, for the city had grown so extensively that the fort was situated in the middle of it. The guns could not be trained in any direction without destroying some part of New Orleans. The people began to question whether this installation was to be used against Burr or to subdue the city itself.²⁰ Their fear was fostered by the secrecy which surrounded the American officials' efforts to protect the area. After his arrival in New Orleans, Wilkinson received orders from the War Department authorizing him to make an agreement with the Spaniards over the disputed western boundary and to deploy his troops to intercept Burr's expedition. Once again, everything was left to Wilkinson's discretion.²¹ At the same time, the Secretary of War ordered Constant Freeman at Fort Adams to prevent all questionable armed vessels on the Mississippi from passing his post.²²

¹⁹Claiborne to Jefferson, December 5, 1806, ibid., 45; McCaleb, Aaron Burr Conspiracy, 202.

²⁰Winston (ed.), "A Faithful Picture," L.H.Q., XI, 379-80.

²¹Dearborn to Wilkinson, November 27, 1806, Letters Sent by the Secretary of War, Relating to Military Affairs, 1800-1889 (Records of the Office of Secretary of War. File Microcopies of Records in the National Archives: No. M-6. Microfilm in possession of author), III, 107. Hereinafter cited as L.S., S.W., M.A.; Abernethy, Burr Conspiracy, 173.

²²Dearborn to Freeman, November 28, 1806, L.S., S.W., M.A., III, 109.

While fortifying New Orleans, Wilkinson took a definite step toward establishing a military tyranny. On December 6, 1806, he asked Governor Claiborne to establish martial law and suspend the writ of habeas corpus. Civil procedures, Wilkinson declared, should be suspended temporarily to allow him to seek out and arrest all disaffected persons.²³ The next day the General informed the Governor that Captain John Shaw, the naval commander at New Orleans, could not complete his defensive measures because of a lack of sailors and carpenters, and asked that martial law be instituted so that the necessary personnel could be conscripted.²⁴ Claiborne replied that he did not have the authority to establish martial law, that only the legislature could legally do so.²⁵ In an effort to obtain the sailors needed to man the gunboats, on December 9, the Governor called together the Chamber of Commerce of New Orleans to request that its merchant members voluntarily release sailors on their ships who would be willing to enter the service of the United States. The Governor explained to the merchants

²³As early as November 12, 1806, Wilkinson had urged the necessity of proclaiming martial law to President Jefferson, Schachner, Burr, 342; McCaleb, Aaron Burr Conspiracy, 205-206; Wilkinson to Claiborne, December 6, 1806, Rowland (ed.), Claiborne's Letterbooks, IV, 46-47.

²⁴Wilkinson to Claiborne, December 7, 1806, Rowland (ed.), Claiborne's Letterbooks, IV, 49.

²⁵Claiborne to Madison, December 9, 1806, ibid., 50-51.

the need for the men and the reason for all the military preparations in the city. At the same meeting, Wilkinson detailed Burr's plans and pointed out the perilous situation of New Orleans. He also stated that he was not in agreement with the Governor in calling the meeting and that, but for his lack of authority, he would have obtained the seamen by a draft.²⁶ This meeting represented the first time any of the people of New Orleans were authoritatively informed of the danger of Burr.

The merchants answered the Governor's appeal by suggesting that a complete embargo on shipping through the port of New Orleans be established to free the needed seamen. They also proposed to raise money by subscription to clothe the sailors who should enter the nation's service.²⁷ Acting upon the merchants' advice, Claiborne issued orders prohibiting any vessel from leaving port without permission from either himself or General Wilkinson. The period of service for the seamen was six months and the order was to be repealed as soon as an adequate number of sailors had been

²⁶Ibid., 51; Louisiana Gazette, December 7, 12, 1806; Wilkinson explained his silence concerning Burr's plans and the danger to New Orleans. He feared assassination attempts on his life and wanted to continue with Burr's agents so as to collect evidence of an overt act on which to arrest them without bail. McCaleb, Burr Conspiracy, 211.

²⁷Claiborne to Madison, December 9, 1806, Rowland (ed.), Claiborne's Letterbooks, IV, 52-53; Abernethy, Burr Conspiracy, 177.

obtained.²⁸

Within a few days after the meeting, when the initial effect had dissipated, some of the merchants began to oppose certain parts of the Governor's order. They especially felt that the period of service for the sailors was unnecessarily long.²⁹ For this or other reasons, the embargo did not provide additional personnel for the navy. General Wilkinson suggested that the Governor impress them, but Claiborne refused to do so except as a last resort. For, as he admitted, he had no authority to force men into the service, or even to close the port of New Orleans to shipping.³⁰ Nevertheless, the embargo remained in effect until December 31, 1806.³¹

Although Claiborne felt that he was already exceeding his constitutional powers, Wilkinson demanded more vigorous action. In the middle of December, he wrote the Governor complaining of his lack of authority to arrest Burr's agents in New Orleans and calling for the use of force to compel seamen to serve in the United States navy. Declared the General:

²⁸Claiborne to William Brown, December 10, 1806, Rowland (ed.), Claiborne's Letterbooks, IV, 67-68; McCaleb, Aaron Burr Conspiracy, 210.

²⁹Claiborne to Wilkinson, December 12, 1806, Rowland (ed.), Claiborne's Letterbooks, IV, 56-57.

³⁰Ibid.

³¹Claiborne to John Shaw, December 31, 1806, ibid., 74.

When I observe that with the most upright and honest intentions, you suffer yourself to be unduly biased by the solicitation of the timid, the capricious or the wicked who approach you with their criticism on subjects which they do not understand, and their opposition to measures which they do not comprehend, or which understanding, they are desirous to prevent or defeat. What will our alertness import without force and energy to support it, and how can we be prepared without means? Shall our reverence for our civil institutions produce their annihilation, or shall we lose the house because we will not break the windows?³²

The Governor replied that he would use all his constitutional powers and perhaps even exceed them, if the danger demanded it. But for the present, he saw no need for such extreme measures as Wilkinson was proposing,³³ and stubbornly refused to suspend the privilege of habeas corpus or proclaim martial law. The Governor recommended that Wilkinson use the ordinary civil processes to arrest and hold abettors of Burr in the city.³⁴

Although rejecting Wilkinson's proposals, on December 16, 1806, Governor Claiborne did issue a proclamation warning the citizens of the consequences of becoming involved with Burr. It stated:

Whereas I have received information that certain Persons are combining and confederating in a

³²Wilkinson to Claiborne, December 15, 1806, ibid., 58-60.

³³Claiborne to Wilkinson, December 16, 1806, ibid., 61.

³⁴Claiborne to Wilkinson, December 17, 1806, ibid., 64-65; Claiborne to Madison, December 17, 1806, ibid., 68.

Traitorous Project to subvert the authority of the Government of the United States over a portion of the Territories thereof, and to invade the Dominions of the King of Spain, a Prince in amity with the United States; I have thought proper to issue this my Proclamation, hereby solemnly cautioning the Citizens of this Territory against entering into, or in any manner countenancing the conspiracy aforesaid; and that no one may remain ignorant of the fatal consequences which may await the Parties concerned, I do now make it known, that the Law of the United States declares "That if any Person or Persons, owing Allegiance to the United States of America, shall levy war against them, or shall adhere to their enemies, giving them aid or comfort within the United States or elsewhere, and shall be thereof convicted on confession in open Court, or on the testimony of two witnesses to the same overt act of the treason whereof he or they shall stand indicted, such person or persons, shall be adjudged guilty of Treason against the United States, and Shall Suffer Death."--and that "If any Person or Persons having knowledge of the Commission of any of the Treasons aforesaid, shall conceal, and not as soon as may be, disclose and make known the same to the President of the United States or Some one of the judges thereof, or to the President or Governor of a particular State, or Some one of the judges or justices thereof, such Person or Persons, on conviction, shall be adjudged guilty of misprision of Treason, and shall be imprisoned not exceeding Seven years and fined not exceeding one thousand Dollars."

And I do further make known, That the law of the United States has also declared, that if any person shall, within the Territory or jurisdiction of the United States, begin, or set on foot, or provide, or prepare the means for any military expedition or enterprise, to be carried on from thence against the Territory or Dominions of any Foreign Prince or State, with whom the United States are at Peace, every such person so offending, shall upon conviction, be adjudged guilty of High Misdemeanor, and shall suffer fine and imprisonment at the discretion of the Court in which the conviction shall be had, so as that such fine shall not exceed three thousand Dollars, nor the term of imprisonment to be more than three years.³⁵

³⁵"A Proclamation," December 16, 1806, Carter (ed.), Orleans Territory, 694-95; Louisiana Gazette, December 16, 1806.

The Governor's proclamation was significant, because it was the first official public statement concerning the Burr conspiracy, and it was the first public announcement of the penalties for involvement in the traitorous project. While having warned the people of Orleans territory against becoming in any way involved in Burr's activities, Claiborne refused to adopt any of the arbitrary measures urged by Wilkinson.

In reality, the agents and supporters of Burr in the city were few in number, were newcomers to the city, and were Americans. Most of the people of New Orleans were never sympathetic to his plans. Some of those who supported him did so because of his proposed expedition against Mexico, not knowing of his plans, if he had any, to dismember the Union. Shortly after American occupation of Louisiana, the Mexican Association, an organization with the avowed purpose of liberating Mexico, had formed in New Orleans. Its membership grew to about 300, including many prominent Americans such as Daniel Clark, Edward Livingston, James Workman, Lewis Kerr, and John Watkins.³⁶ Some of these men welcomed and entertained Burr when he visited the city in June, 1805, and

³⁶Abernethy, Burr Conspiracy, 25; Claiborne to the Secretary of State, February 20, 1807, S.D. Burr Conspiracy Letters; Claiborne to the Secretary of State, March 11, 1807, ibid.

undoubtedly were pleased by his talk of invading Mexico.³⁷

However, when Burr was expected with his armed force the next year, not one of them actually associated with him.³⁸

More significantly, these Americans, especially Clark and Livingston, were opponents of Claiborne's administration.

They had led the Creoles in expressing their discontent to Congress in 1804 and in forming opposition to administration proposals in the territorial legislature.³⁹ Personally and politically they were hostile to Claiborne, but not traitors to the United States. Clark, one of the most outspoken opponents of Claiborne, urged the Creoles, before he left for Washington in October, 1806, to forget their political hostility and aid the Governor in defending the territory against the expected arrival of Burr.⁴⁰

³⁷Daniel Clark, Proofs of the Corruption of General James Wilkinson and of His Connexion with Aaron Burr . . . (Philadelphia: Pierie Printers, 1809), 94. Wilkinson himself wrote Burr letters of recommendation to Clark, the Marquis de Casa Calvo, and Gilbert Leonard, late Spanish secretary. Abernethy, Burr Conspiracy, 28.

³⁸Clark is usually named as an associate of Burr, but he seems to have broken his connection with both Burr and Wilkinson when he left for Washington as territorial delegate. Clark, Proofs of the Corruption, 97-98, 127-28.

³⁹Henry Adams, History of the United States of America (9 vols.; New York: C. Scribner's Sons, 1889-1891), III, 300, 302.

⁴⁰Wilkinson himself held no high opinion of Claiborne. To Gilbert Leonard he wrote, "he [Burr] will send your Idiot black guard W. C. C. C. to the Devil," Abernethy, Burr Conspiracy, 28. Later Wilkinson claimed he and Claiborne reconciled their differences in September, 1806, when they met at Rapides. Wilkinson, Memoirs, II, 286.

Nor did Burr find any support among the Creoles who, despite their earlier discontent, remained steadfastly loyal to the American government. Neither Claiborne nor Wilkinson seriously suggested that any of them were among Burr's supporters in New Orleans. In January, 1807, Claiborne stated: "we however are assured of the fidelity of the ancient Louisianians to the U. States & of their attachment to the General Government -- For myself I do believe that this declaration is correct so far as relates to a majority of the ancient Louisianians, & (perhaps) the whole, so far as to exempt them from all participation in Burr's Conspiracy. . . ."41 Wilkinson declared "Burr's friends and well-wishers" were "almost exclusively of our own countrymen and foreigners" while his "enemies and opposers" were "almost the whole of the ancient inhabitants."42 Even Clark, who was friendly with Burr and Wilkinson at one time, described the Creoles as "loyal, disinclined to revolution, and averse from turbulence and those political schisms, which appear to disturb the newcomers among them."43

Wilkinson, having earlier abandoned all hope of gaining the Governor's support for his despotic proposals, turned

⁴¹Claiborne to the Secretary of State, January 29, 1807, "Letters Concerning the Aaron Burr Conspiracy," Mississippi Department of Archives and History, Annual Report, III, Appendix, 164-65.

⁴²Clark, Proofs of the Corruption, 151-52.

⁴³Ibid., 124-25.

to military arrests of Burr's associates to stamp out the nefarious conspiracy. On his orders, on December 14, 1806, Doctor Erich Bollman was seized publicly on a city street by a military guard and whisked away to a waiting ship in the harbor. While there was no doubt that Bollman was an emissary of Burr, having carried letters from the traitor to friends in the city, there was doubt as to the legality of Wilkinson's actions in ordering the military arrest of a citizen charged with a civil offense. Two days later, James Alexander, an attorney, applied to the Superior Court for a writ of habeas corpus on behalf of Bollman. The court issued a writ of habeas corpus ad subjiciendum directing the General to appear in court to show cause why Bollman should be detained.⁴⁴ Wilkinson replied by assuming all responsibility for the arrest of Bollman and asserting that he had been arrested to uphold, and not to destroy, the Constitution, and that he would seize any other persons implicated in the plot.⁴⁵ Furthermore, Wilkinson implicated James Alexander and Edward Livingston, the two attorneys representing Bollman, in the conspiracy. He accused Alexander of being a messenger of Burr in the city and Livingston of having honored a draft of Burr's in favor of Bollman and also of

⁴⁴Louisiana Gazette, December 19, 1806; Abernethy, Burr Conspiracy, 58.

⁴⁵Louisiana Gazette, December 19, 1806.

being a member of the Mexican association.⁴⁶ Although Wilkinson's action was a challenge to the civil government of the territory, the Governor merely notified Wilkinson that, in his opinion, the arrest of Bollman was justifiable, but that he should have been turned over to the civil authority when demanded.⁴⁷

Bollman's was the first of a number of arrests ordered by Wilkinson. By December 15, reports reached New Orleans that, on Wilkinson's orders, Captain John Shaw had seized Samuel Swartwout and Peter V. Ogden in the vicinity of Fort Adams and they were being held aboard naval vessels in the river.⁴⁸ Again, there was little doubt as to the two men's involvement with Burr, since both had acted as his messengers. Swartwout had carried the famous cypher letter to Wilkinson in Natchitoches.⁴⁹ Judge James Workman of the county court of Orleans issued a writ of habeas corpus in favor of Ogden. He was brought before the judge and was dismissed for a lack of evidence. Meanwhile, Swartwout was moved down river out of the jurisdiction of the court.⁵⁰ On

⁴⁶Ibid., December 30, 1806; Abernethy, Burr Conspiracy, 173.

⁴⁷Claiborne to Wilkinson, December 25, 1806, Rowland (ed.), Claiborne's Letterbooks, III, 69.

⁴⁸Winston (ed.), "A Faithful Picture," L.H.Q., XI, 394.

⁴⁹Deposition of General Wilkinson, December 26, 1806, S.D. Territorial Papers, IX; Abernethy, Burr Conspiracy, 59.

⁵⁰Winston (ed.), "A Faithful Picture," L.H.Q., XI, 394, 404; McCaleb, Aaron Burr Conspiracy, 216.

December 19, on Wilkinson's orders, Ogden was rearrested and Attorney James Alexander was taken into custody on the charge of being a member of Burr's conspiracy.⁵¹ John Williamson and Edward Livingston applied for a writ in favor of Ogden which Judge Workman issued, but when served upon Wilkinson, he refused it giving an answer similar to that in the case of Bollman. Judge Workman, together with Judges Hall and Matthews, then appealed to Claiborne to support the civil authority against Wilkinson, but the Governor refused, and Wilkinson continued to ignore the court's decrees. When all efforts to secure the prisoner's release failed, Edward Livingston moved in Judge Workman's court for an attachment against the person of General Wilkinson. In reply to the court's decree, Wilkinson answered that he "has taken upon himself the responsibility of arresting Peter V. Ogden, on a charge of misprision of treason against the government and laws of the United States, and has the honor to inform the Honorable James Workman, Judge of the county of Orleans, that the body of the said Peter V. Ogden is not in his power, possession, or custody." He had already sent Ogden out of the jurisdiction of the court. Upon receipt of Wilkinson's answer, Workman again applied to Claiborne to assist the

⁵¹In the cases of Alexander, Ogden, and John Adair, Wilkinson, when requested by the court to produce the prisoners, claimed that they were not in his possession when the writs of habeas corpus were issued. Deposition of General Wilkinson, December 26, 1806, S.D. Territorial Papers, IX; Deposition of Wilkinson, January 15, 1807, L.R., S.W., M.S., XIV; Schachner, Burr, 369.

civil government against Wilkinson. He explained that the usual method of enforcing an attachment, the posse comitatus, could not be used effectively against Wilkinson because of the agitated state of the people and because of Wilkinson's control over practically the entire military force of the territory. Once again Claiborne remained silent except to urge Wilkinson to obey the civil authorities.⁵² Realizing that he would receive no support from the Governor, Judge Workman refused to grant Livingston's attachment, since it could not be enforced, and closed his court sine die to preserve its sanctity against military tyranny.⁵³ He also sent to the territorial legislature a communication explaining his action.⁵⁴ The next day, January 14, 1807, Workman was arrested on Wilkinson's orders, but was soon released. He again appealed to Claiborne to stand behind the laws and courts, but to no avail. Finally, on February 23, 1807, Judge Workman resigned his office in disgust.⁵⁵

There was no justification for the Governor's inactivity and refusal to heed the judge's pleas. Claiborne

⁵²McCaleb, Aaron Burr Conspiracy, 219-21; Schachner, Burr, 369-71.

⁵³Louisiana Gazette, April 14, 1807.

⁵⁴Ibid.

⁵⁵Wilkinson also claimed that Judges Dominick Hall and George Matthews, Jr. were involved with Workman, principally because of their legal attempts to free Wilkinson's prisoners. Wilkinson to Dearborn, January 5, 1807, L.R., S.W., M.S., XIV.

had written previously that he considered Wilkinson's arrests to be in violation of the law, and his refusal to surrender prisoners when requested by the civil authority as "opposition to the Government." He also declared that when called upon by the judiciary he would oppose the General,⁵⁶ but he refused to answer Judge Workman's call for support. Perhaps he was afraid of Wilkinson, since he had control of all the military forces in the area, or maybe he felt that the danger to the city warranted the General's actions. He may have been distrustful of Workman himself who was considered by some to be one of Burr's associates.⁵⁷ Whatever his reasons, Claiborne did nothing to prevent the illegal arrests by Wilkinson.

At the same time Workman was arrested, three other

⁵⁶Claiborne to Mead, January 2, 1807, Rowland (ed.), Claiborne's Letterbooks, IV, 76-77. Even President Jefferson doubted the propriety of Wilkinson's transferring Bollman and Swartwout to Washington for trial. However, he felt that public opinion would support Wilkinson's actions. Bollman, Alexander, and Adair were sent back East for trial, but they were all acquitted by various courts for lack of evidence. Abernethy, Burr Conspiracy, 195-96.

⁵⁷Wilkinson himself notified Claiborne that Workman was involved with Burr. Wilkinson to Claiborne, January 14, 1807, S.D. Territorial Papers, IX.

prominent men, General John Adair,⁵⁸ James Bradford,⁵⁹ and Lewis Kerr, were seized under the General's orders. Workman and Kerr were brought before the District Court and acquitted of charges of planning to revolutionize Mexico, while Adair was sent under arrest to Washington.⁶⁰ Wilkinson explained that these arrests were in keeping with his orders from the Secretary of War "to secure persons and property and especially their [the conspirators'] leaders."⁶¹ Realizing that discontent and apprehension had developed among the citizenry

⁵⁸Wilkinson charged that Adair was an agent of Burr. Adair traveled through some of the western counties of the Territory of Orleans causing some of the militia to declare support for Burr against the Federal government. Wilkinson to the Secretary of War, January 9, 1807, L.R., S.W., M.S., XIV; Hopkins to Claiborne, December 25, 1807, ibid., V.

⁵⁹Bradford, editor of the Louisiana Gazette, was also arrested for being an associate of Burr.

⁶⁰Although Wilkinson arrested Kerr and Workman for planning a revolution after the arrest of Adair, the two men were actually indicted for participation in plans to revolutionize Mexico. They were members of the Mexican Association in New Orleans. The association evidently had nothing to do with Burr's conspiracy. Many Americans sincerely believed that they should help overthrow Spanish authority in Mexico. Finally even Wilkinson admitted that Kerr and Workman were not associated with Burr. He claimed that they planned to seize Mobile, Pensacola, and Mexico and that Workman proposed to revolutionize the Territory of Orleans. Louisiana Gazette, March 6, 1807; Claiborne to the Secretary of State, February 20, 1807, S.D. Burr Conspiracy Letters; Claiborne to the Secretary of State, March 11, 1807, ibid.; Wilkinson to Dearborn, January 9, 1807, L.R., S.W., M.S., XIV; Deposition of Frances W. Small, January 11, 1807, ibid.

⁶¹Wilkinson to Williams, February 6, 1807, L.R., S.W., M.S., XIV.

because of Wilkinson's arbitrary conduct, Governor Claiborne attempted weakly to justify his inactivity to his superiors in Washington. Writing to the Secretary of State in June, 1807, he stated:

The state of things here for some time past has been most unpleasant; the Judges are greatly dissatisfied & there are many persons who much censure the General, for his strong acts, and also myself, for not opposing them with force; there are others again (perhaps a majority of the Inhabitants of the City) who applaud the measures pursued, and think them such, as could alone ensure the General Safety. For myself I believe the General is actuated by a sincere disposition to serve the best Interest of his Country; but his zeal I fear, has carried him too far: -- his responsibility however is great, and I hope he may be enabled to justify himself. On my account, I feel no apprehension as to the part I have acted; my whole conduct has been guided by my best judgment, and when fully and impartially investigated will be approved. The uncertainty (at this period) as to the safe conveyance of letters from this to the Atlantic States, induces me for the present to decline entering into a full explanation of my conduct, and Stating the various considerations which have influenced it; but I pray you to receive no unfavorable impressions; I pledge myself to you, that under all circumstances, and in a situation so singular and embarrassing [sic], I have done that which was best. I suspect the House of Representatives of this Territory will pass some resolutions, expressive of their disapprobation of General Wilkinson's conduct, and of a forbearance on my part, which they may suppose censurable. Be this as it may, I shall nevertheless be convinced that in my singular and embarrassing [sic] situation, I have done that which was best, & I have no doubt, but it will be in my power to convince you of the fact.⁶²

This statement was typical of Claiborne. He seemed to agree and yet not to agree with the General at the same time.

In addition to the arrest of persons who were

⁶²Claiborne to Madison, June 15, 1807, Rowland (ed.), Claiborne's Letterbooks, IV, 96-97.

allegedly involved in the Burr conspiracy, Wilkinson took certain military measures to deal with an anticipated invasion of a force under Burr's command. To oppose Burr and his followers Wilkinson had under his command about 1,000 regulars. In January, 1807, he also swore into Federal service the Battalion of Orleans Volunteers, the only trained militia group in New Orleans.⁶³ This unit remained on active service until March 8, 1807.⁶⁴ On January 3, citizens not enrolled in any military unit agreed to form a military organization for "the purpose of being at all times ready when called upon by the constituted authorities to support the government of the United States."⁶⁵

The General also directed the activities of the navy on the lakes and the Mississippi River. He stationed a naval guard at Willow Grove above the city to stop and

⁶³Wilkinson forced the local men to make many of his arrests of citizens and refused to allow them to operate under their own articles of incorporation. For these reasons the militia unit became totally disaffected, and for several years after the conspiracy many of the volunteers refused to offer their services in defense of the territory. The militiamen blamed Governor Claiborne, who was their commander-in-chief, for allowing them to be taken over by Wilkinson and subjected to military law. On January 4, 1807, Claiborne was ready to reassume command of the Orleans Volunteers when he learned that Burr was descending the river with 6,000 troops. Immediately, he determined to leave the corps under the command of General Wilkinson. Louisiana Gazette, February 13, 1807; Claiborne to Mead, n.d., Rowland (ed.), Claiborne's Letterbooks, IV, 104-106.

⁶⁴Louisiana Gazette, March 13, 1807.

⁶⁵McCaleb, Aaron Burr Conspiracy, 225.

examine all boats descending the Ohio and Mississippi rivers.⁶⁶ Similarly, every boat entering the Mississippi was boarded and investigated. Every person or vessel passing Fort St. John, at the mouth of Bayou St. John and Lake Pontchartrain, required a passport, and information on those entering the city was forwarded to the governor. Cavalry patrols watched the area of Manchac stopping and arresting suspicious persons, and night militia patrols roamed the coast area to prevent trouble among the slaves.⁶⁷ These patrols were so much complained of by the citizens of the territory that Claiborne suggested they be used simply as an observation corps.⁶⁸ All travelers entering New Orleans were halted at the gates of the city and searched, their papers were seized, and they were imprisoned unless they had a proper passport.⁶⁹ It is no wonder that the people became concerned not over the possibility of Burr's invasion, but with the military regime they saw emerging around them.

The last hope of the people in opposing General

⁶⁶This action also caused complaints from citizens of the territory who were delayed and searched by the naval authorities. Claiborne to Wilkinson, January 17, 1807, Rowland (ed.), Claiborne's Letterbooks, IV, 99; Claiborne to Wilkinson, January 21, 1807, ibid., 107.

⁶⁷Claiborne to Wilkinson, January 19, 1807, ibid., 101-103.

⁶⁸Claiborne to Wilkinson, January 21, 1807, ibid., 107; McCaleb, Aaron Burr Conspiracy, 230-31.

⁶⁹Louisiana Gazette, March 20, 1807.

Wilkinson's arbitrary measures was the territorial legislature which convened on January 13, 1807. In addressing the first session, Governor Claiborne deplored as almost unbelievable the fact that an association for the dismemberment of the Union had been formed, but he presented no particular information of Burr's movements or Wilkinson's actions to counter them.⁷⁰ The same day the Governor appeared, a letter from Judge Workman was read to the assembly announcing "the overthrow of civil authority," as was evidenced by the illegal arrest and transportation of citizens by Wilkinson, and his adjournment of the county court sine die.⁷¹

Beginning the next day, the House of Representatives went into secret session for the purpose of discussing the recent unusual events in the territory. On January 17, General Wilkinson appeared before the assembly behind closed doors to disclose the threat Burr posed to the city. For two days he testified concerning Burr's plans, but refused to present Burr's letter of July 29, 1806, for fear that some of the legislators, especially Speaker John Watkins, were attempting to arouse opposition to his measures by implicating him with Burr.⁷² Two days later, Governor Claiborne sent the

⁷⁰Claiborne's Speech to the two Houses of the Assembly, January 13, 1807, Rowland (ed.), Claiborne's Letterbooks, IV, 88-89.

⁷¹Louisiana Gazette, January 16, 1807.

⁷²Ibid., January 20, 1807; Clark, Proofs of the Corruption, 164, 167. Wilkinson, earlier expecting to present the letter to the legislature, erased some of the wording which seemed to implicate him in the conspiracy.

legislature a copy of a letter he had received from the Secretary of War, dated December 20, 1806. In this communication, Secretary Dearborn warned Claiborne of Burr's approach and authorized him to "make every exertion in your power to resist, take and secure any men or body of men who may appear with views hostile to the laws and peace of the United States" and "to lose no time in arresting any suspicious characters and having them bound over to keep the peace and be of good behavior, or prosecute according to the evidence against them respectively." He also informed the Governor of preparations to stop Burr in other states and territories and urged him to cooperate with the military in defending New Orleans.⁷³

About this time reports appeared in the Louisiana Gazette announcing the arrival of Burr at Bayou Pierre, thirty miles north of Natchez.⁷⁴ Still the House of Representatives determined to investigate "the extraordinary measures which have had place for some time past in this Territory" and present a full report to the Congress of the

⁷³Claiborne to the Legislative Council and the House of Representatives, January 19, 1807, Rowland (ed.), Claiborne's Letterbooks, IV, 116; Secretary of War to Claiborne, December 20, 1806, Miscellaneous Letters Sent by the Secretary of War, 1800-1809 (Records of the Office of Secretary of War. File Microcopies of Records in the National Archives: No. M-370. Microfilm in possession of author), II, 546-47.

⁷⁴Louisiana Gazette, January 23, 27, 1807.

United States.⁷⁵ The legislature was interested primarily in investigating Wilkinson's arbitrary acts in New Orleans. It requested Claiborne to give it all the information he possessed concerning Wilkinson's unusual activities, the number and term of service of the militiamen placed under the General's command, and later intelligence concerning Burr's threat to the territory.⁷⁶ The Governor complained that the territorial legislature gave him no aid whatsoever in breaking up Burr's Conspiracy.⁷⁷

On February 10, 1807, Governor Claiborne sent a message to the legislature announcing that Burr had been arrested at Natchez, but that many of the traitor's adherents were in Mississippi Territory and some were in New Orleans. To apprehend them, the Governor recommended that the legislature suspend temporarily the right of the writ of habeas corpus.⁷⁸ As could be expected, the House of Representatives and the Legislative Council refused to do so, since in the opinion of Judges Dominick Hall, George Matthews, Jr., and William Sprigg, and James Brown, United States District

⁷⁵House of Representatives to Claiborne, January 26, 1807, Rowland (ed.), Claiborne's Letterbooks, IV, 113; Louisiana Gazette, February 3, 1807.

⁷⁶Louisiana Gazette, February 3, 1807.

⁷⁷Claiborne to Madison, February 6, 1807, S.D. Burr Conspiracy Letters.

⁷⁸Claiborne to the Legislative Council and the House of Representatives, February 10, 1807, Rowland (ed.), Claiborne's Letterbooks, IV, 117-18.

Attorney, such an action would violate the Constitution of the United States.⁷⁹ A number of members of the House of Representatives then drew up a petition to Congress outlining step by step all the events of the previous months, questioning the legality of Wilkinson's actions and Claiborne's apparent support of them, and requesting that Congress investigate the General and take appropriate action against him.⁸⁰ The memorial occasioned a long and heated debate in the House. Some members, such as William Donaldson, John Gurley, and Alexander Fulton, wanted the memorial rejected or recommitted to a committee where it would die, while others, such as John Hughes and John Watkins, stoutly defended it.⁸¹ On March 16, 1807, the legislature rejected

⁷⁹House of Representatives to Claiborne, February 18, 1807, ibid., 122-23; Claiborne to Madison, February 20, 1807, S.D. Territorial Papers, IX; Louisiana Gazette, March 27, 1807. McCaleb, Aaron Burr Conspiracy, 235, calls the legislature's rejection of Claiborne's request to suspend the writ of habeas corpus "the signal for the revolt against the tyranny which the city had patiently borne for many weeks. . . ."

⁸⁰Louisiana Gazette, Extra, March 20, 1807; McCaleb, Aaron Burr Conspiracy, 235.

⁸¹Louisiana Gazette, March 24, 31, April 3, 7, 10, 1807; McCaleb, Aaron Burr Conspiracy, 236-37. Watkins was especially vigorous in denouncing Claiborne for approving the unlawful military arrests and the illegal embargo and for allowing Wilkinson to assume command of the Battalion of Orleans Volunteers. Debate in the House of Representatives of the Territory of Orleans On A Memorial to Congress Respecting the Illegal Conduct of General Wilkinson (New Orleans: Bradford and Anderson, 1807), 3-42.

the memorial by a vote of 14 to 7.⁸²

The legislature actually reflected the divided view of the people of Orleans in general. Some felt that Wilkinson was the savior of the city and territory, while others believed that he had unnecessarily seized despotic control. The same division of public opinion existed with regard to Governor Claiborne. While critics of the two officials were vociferous, other citizens drew up a petition thanking the Governor and General for their efforts to defend the territory. The signatories of this petition were influential and respectable men, some of them members of the territorial legislature, headed by Julien Poydras, Benjamin Morgan, and Joseph Saul.⁸³ They included persons of property who may have been influenced by Wilkinson's warnings that Burr planned to take over the shipping, money, and commercial interests of the city.⁸⁴

Whatever the nature of the division in public opinion,

⁸²Claiborne to the President, May 19, 1807, Carter (ed.), Orleans Territory, 734; Abernethy, Burr Conspiracy, 214; Hay and Werner, Admirable Trumpeter, 265. According to Abernethy, the defeat of the memorial was due largely to the efforts of Governor Folch of Florida who used his influence against it at Wilkinson's request. Hay and Werner state that both Wilkinson and Claiborne asked Folch to use his influence to defeat the measure.

⁸³Louisiana Gazette, March 27, 1807.

⁸⁴Abernethy, Burr Conspiracy, 214; Hay and Werner, Admirable Trumpeter, 266. These authorities again state that Governor Folch claimed credit for the passage of the memorial thanking Wilkinson and Claiborne for their efforts in defending New Orleans.

the result was evident. Louisianians were split into parties distrusting and reviling each other. In the factionalism that developed, the United States government lost, at least temporarily, the respect and loyalty of many of the people.⁸⁵ However, in the long run, at least in the case of Governor Claiborne there was a beneficial result. Claiborne realized during the Burr crisis for the first time that the Americans, and not the Creoles, were troublemakers in the Territory of Orleans. It was Americans among the population who participated in Burr's designs or were implicated with him. Thus, when calm once again descended, he found himself able to cooperate to a greater extent with the native inhabitants than previously. Developing political understanding and mutual trust began to mark the relationships between Governor and people.

⁸⁵John Graham to Madison, March 5, 1807, S.D. Burr Conspiracy Letters.

CHAPTER XIV

WEST FLORIDA AND THE TERRITORY OF ORLEANS

The West Florida Rebellion, like the Burr Conspiracy, was a national event of particular importance to the Territory of Orleans, for the area involved finally became a part of Orleans and then of the State of Louisiana.

The contention over the area originated, as in the case of the western boundary, in the vague provision of the Louisiana cession treaty on the subject. It delineated no definite eastern boundary for Louisiana, stating merely that the cession should include the same area "that it now has in the hands of Spain, and that it had when France possessed it."¹ The basis for conflicting claims lay in the fact that under France, Louisiana was settled to the Mobile River, while under Spain the Mississippi River had served as the boundary between West Florida and Louisiana, with the exception of the isle of Orleans which was a part of Louisiana.

After the negotiation of the purchase treaty, both the United States and Spain set out to assemble proofs of

¹"Treaty for the Cession of Louisiana," Hunter Miller (ed.), Treaties and Other International Acts of the United States (8 vols.; Washington: Government Printing Office, 1931), II, 500.

their claims to West Florida. In the case of the United States, inquiries were made of inhabitants residing in Louisiana and searches were conducted in the hope of finding extant maps which would prove the validity of the American title to the province. Within a week after taking possession of Louisiana, the two American commissioners, Claiborne and Wilkinson, sought the opinion of Pierre Clement Laussat, the French Commissioner, regarding the eastern boundary of Louisiana. Laussat replied that the eastern border was the same as that provided by the Peace of Paris of 1763, that is "through the River Iberville the middle of the Lakes Maurepas and Pontchartrain to the sea." He admitted that France had attempted to claim the land eastward to the Mobile River, but Spain had promptly refused to recognize it.² Claiborne discovered that most Louisianians apparently held that West Florida was not included in the cession. He surmised that they took this position because they feared that their land claims would be invalidated if the United States should gain the area. The Governor personally felt that the treaty guaranteed American possession eastward to the limits of the ancient French province, and that Spain would surrender both Floridas in return for American abandonment of its claims to

²Claiborne and Wilkinson to Madison, December 27, 1803, James A. Robertson (ed.), Louisiana Under the Rule of Spain, France and the United States, 1785-1807 (2 vols.; Cleveland: The Arthur H. Clark Company, 1911), II, 290-91.

the territory west of the Sabine River.³

Ignoring the strong Spanish claim to West Florida, the United States government, in February, 1804, asserted sovereignty over the area by adopting a tonnage and import act which encompassed land and streams as far east as the Perdido River.⁴ Yet it hesitated to execute that sovereignty. The Secretary of the Treasury directed Hore Browse Trist, Collector of Customs at New Orleans, not to exercise jurisdiction over the disputed area since it had not yet been delivered into American hands. The Collector was not to use force or in any way endanger the peace of the United States.⁵

The American claim to West Florida implied by the revenue act evoked a loud protest from Governor Vincente Folch. The Spanish Governor proclaimed that West Florida was part of the territory ceded by France to Great Britain in 1763 and had been seized by Spanish arms during the American Revolution. Since West Florida was taken after the Spanish had already occupied Louisiana, the two provinces

³Claiborne to Madison, January 24, 1804, Dunbar Rowland (ed.), Official Letterbooks of W. C. C. Claiborne, 1801-1816 (6 vols.; Jackson: State Department of Archives and History, 1917), I, 346-47.

⁴Statutes at Large, II, 251-54.

⁵Secretary of the Treasury to Hore Browse Trist, February 27, 1804, Clarence E. Carter (ed.), Orleans Territory, 1803-1812 (Volume IX of Territorial Papers of the United States (Washington: Government Printing Office, 1940), 193.

could not be considered as one and any attempt on the part of the United States to extend jurisdiction over the area would be repelled with force.⁶ Governor Claiborne disclaimed any authority to discuss the dispute with Folch stating that the respective home governments would have to resolve the issue.⁷

Previous to this, however, Claiborne and Wilkinson had taken steps to ensure that no action or inaction on their part would lessen the validity of the American claim. They protested to Pierre Clement Laussat that nothing they might do

. . . shall be construed as a Relinquishment of the claims of the United States to the colony or Province of Louisiana, with the same Extent which it had actually in the hands of Spain (on the 1st of October 1800 the Date of the Treaty of St. Ildefonso) and which it had when France possessed it, and such as it ought to be after the Treaties subsequently entered into between Spain & other States.⁸

As Governor Claiborne properly stated, the settlement of the dispute over West Florida would have to be made by the governments of the United States and Spain. However, if trouble should develop in the province itself, it would involve the local Spanish and American officials, their relations would be strained, and war might ensue. It was almost

⁶Folch to Claiborne, May 1, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 182-85.

⁷Claiborne to Folch, June 2, 1804, ibid., 185-86.

⁸Claiborne and Wilkinson to Laussat, March 26, 1804, Carter (ed.), Orleans Territory, 216-17.

inevitable that trouble would develop because of the great numbers of Anglo-Americans who had poured into West Florida after 1763 and again after 1783.⁹ Although the Spanish government had encouraged this migration, after 1783 these emigrants not only wished for, but actually plotted revolution against Spanish authority.

In 1804 an insurrection broke out in West Florida, and the Spanish officials of that province and neighboring New Orleans promptly implicated the American government in it. The originators of the trouble were three American brothers, Reuben, Samuel, and Nathan Kemper. The Kempers had come to West Florida at the invitation of John Smith of Cincinnati, Ohio, who had acquired a large tract of land in Feliciana district not far from the village of St. Francisville. The Ohio land speculator chose the Kempers as his agents to settle his Florida tract, but, when the adventure realized no profits, Smith brought suit to evict the Kempers from his land. The suit was decided in favor of Smith, but Nathan and Samuel Kemper refused to leave and fortified themselves with a few armed companions in a shelter. A small militia patrol, under orders from Captain Carlos de Grand Pré, commandant of the district of Baton Rouge, unsuccessfully attempted to dislodge the Kempers, but shortly thereafter a second militia detachment succeeded in

⁹Isaac Joslin Cox, The West Florida Controversy, 1798-1813 (2nd ed.; Gloucester: Peter Smith, 1967), 21-22.

driving the troublemakers to Pinckneyville in Mississippi Territory.¹⁰

In July and August, Samuel and Nathan Kemper recrossed the Mississippi line into West Florida pillaging, burning, and looting. On August 3 they murdered a constable and whipped another one. On August 7 the two Kemper brothers, at the head of an armed band, again re-entered Spanish territory. Their plan was to surprise Captain Grand Pré, seize the fort at Baton Rouge, and declare the province's independence, for they brought with them a proclamation of independence supposedly written by Edmund Randolph of St. Francisville and carried a flag bearing seven white and blue stripes and two stars.¹¹ The band seized militia Captain Don Vincente Pintard, Justice Juan O'Conner, and Planter Champner Terry, whom they hoped to exchange for some

¹⁰Ibid., 152-53; Thomas Perkins Abernethy, The South in the New Nation, 1789-1819 (Baton Rouge: Louisiana State University Press, 1961), 333-34; Isaac Joslin Cox, "Reuben Kemper," Allen Johnson and Dumas Malone (eds.), Dictionary of American Biography (26 vols.; New York: Charles Scribner's Sons, 1928-), X, 323. According to Henry L. Favrot, "Some of the Causes and Conditions that Brought about the West Florida Revolution of 1810," Publications of the Louisiana Historical Society, I (1895), 40, the antagonisms between Americans and Spaniards along the border were kept alive by the Kemper brothers who "were known to hate anything and everything belonging to Spain. . . ."

¹¹Marquis de Casa Calvo to Claiborne, August 11, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 308-309; Cox, West Florida Controversy, 155-56; Abernethy, South in the New Nation, 334-35, states that Randolph was the agent of Intendant Morales and his friends who had speculated in Florida lands and wanted the United States to take over the area to cause an increase in the value of their lands.

prisoners Grand Pré held. The revolution was abortive. Citizens of West Florida outside of Feliciana rallied to the call of Grand Pré and once again the insurgents were forced to flee into American territory where they could not be pursued by Spanish authorities.¹²

Immediately upon learning them, the Marquis de Casa Calvo communicated the details of the insurrection to Governor Claiborne. Although not implicating the United States government in the revolution, Casa Calvo asked Claiborne to warn the temporary governor of Mississippi and the commandant at Pointe Coupée that Americans were under no conditions to give aid or succor to the Feliciana rebels. He also asked the Orleans governor to take action against Reuben Kemper who was writing threatening letters from New Orleans to civil authorities in West Florida and keeping the inhabitants riled up.¹³ Claiborne, who had sought pardon for the Kempers after their resistance to Spanish authority in 1804, denounced the rebels and avowed that they had never received any encouragement from the United States government or its officials. Although declaring it to be unnecessary, he agreed to write the governor of Mississippi Territory and the commandant as requested by Casa Calvo and to investigate

¹²Cox, West Florida Controversy, 157-60.

¹³Casa Calvo to Claiborne, August 11, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 309.

the activities of Reuben Kemper in New Orleans.¹⁴ The leaders of the revolt having taken refuge near Pinckneyville and being suspected of plotting further moves against West Florida, several weeks later Casa Calvo asked Claiborne to arrest them and deliver them to the Spanish authorities. If this were not possible, the Marquis requested that the troublemakers be removed from the immediate boundary area so that their activities would not endanger the peace and security of West Florida.¹⁵ Claiborne again censured the actions of the rebels, but denied having any authority "to direct or allow the seizure of their persons within the Limits of the United States." He promised, however, to seek the advice of the President on the question.¹⁶ By this time, Claiborne was growing tired of the Marquis's residence in New Orleans and was beginning to consider him a troublemaker. Since Casa Calvo held no official position recognized by the United States government, he thought of discontinuing all

¹⁴Claiborne to Casa Calvo, August 27, 1804, ibid., 309-10; extract of a letter from Claiborne to Cato West, n.d., Territorial Papers: Orleans Series, 1794-1813 (General Records of the Department of State. File Microcopies of Records in the National Archives: No. T-260. Microfilm in the New Orleans Public Library, New Orleans, Louisiana), IV. Hereinafter cited as S.D. Territorial Papers. Claiborne to Poydras, August 29, 1804, ibid.; Favrot, "Some of the Causes and Conditions," Publications of L.H.S., I, 41.

¹⁵Casa Calvo to Claiborne, September 13, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 331-32.

¹⁶Claiborne to Casa Calvo, September 13, 1804, ibid., 330-31.

official communication with the Spaniard.¹⁷

Meanwhile Governor Vincente Folch, upon learning of the revolutionary threat, set out at the head of a military contingent to restore order in Feliciana. By the time he arrived at Baton Rouge the disturbance was over, but Folch directed the repair of the fort and prohibited the sale of any more land in West Florida to Americans.¹⁸ The Spanish Governor and his suite then returned to Pensacola via New Orleans where they were entertained by both Spanish and American officials. Governor Claiborne took the opportunity to reassure both Folch and Casa Calvo that the American government had nothing to do with the Kemper rebellion.¹⁹

Despite the protestations of Claiborne, the Spanish minister to Washington, the Marquis de Casa Yrujo, blamed the United States government for the rebellion, since it was led by Americans who found refuge in American territory. To ease the tension between the United States and Spain, Secretary of State Madison wrote Governor Claiborne:

It is evident that if these hostile acts begun in and proceeded from our Territory or were committed by an Citizen of the United States, or if the armed force is embodied or maintained therein with a design to resume

¹⁷Claiborne to Madison, September 23, 1804, ibid., 340.

¹⁸Abernethy, South in the New Nation, 336.

¹⁹Claiborne to Madison, October 22, 1804, Rowland (ed.), Claiborne's Letterbooks, II, 372; Claiborne to the President, November 10, 1804, Carter (ed.), Orleans Territory, 333.

the attempt, that the laws of the United States have been violated, and the offenders ought consequently to be brought to justice.²⁰

Claiborne replied that the rebellion was at an end, but that even at its height there were never more than thirty insurgents involved, that they rendezvoused in West Florida, and that most of them were residents of that province.²¹

Although quiet returned to West Florida temporarily, by April, 1805, it was being reported in Orleans Territory that the Kempers and their associates planned to seek British aid, especially military provisions, and to reinvade Florida, overthrow the government, and take possession in the name of Great Britain.²² Casa Calvo promptly informed Claiborne that a renewal of hostilities by the Kempers would endanger negotiations then underway between Spain and the United States over Louisiana's boundaries, and he suggested that Claiborne notify the Mississippi governor to keep a close watch on the rebel leaders within his district.²³ Although Claiborne did not believe that the Kempers would receive any

²⁰Secretary of State to Claiborne, November 10, 1804, Carter (ed.), Orleans Territory, 332-33.

²¹Claiborne to Madison, December 11, 1804, Rowland (ed.), Claiborne's Letterbooks, III, 25.

²²Extract of a letter from a Gentleman of Respectability in the District of Baton Rouge, April 22, 1805, S.D. Territorial Papers, VI.

²³Casa Calvo to the Governor General of the Territory of Orleans, May 6, 1805, Rowland (ed.), Claiborne's Letterbooks, III, 43-44.

aid from the British, and he considered the rumor of a new attack on West Florida exaggerated, he again agreed to the Marquis's request.²⁴ He also ordered the captain of the American revenue cutter to notify him of the entrance of any armed vessel into Lake Pontchartrain and instructed Lieutenant Colonel Freeman to strengthen Fort St. John in case the insurgents should return through the lakes in an armed vessel.²⁵

Although Governor Claiborne did not believe the rumor concerning the Kempers, he was convinced that the people of West Florida were discontented with Spanish rule and would follow any organized group whose object was to lead a revolt.²⁶ The Governor's opinion seemed to be substantiated by an article which appeared in the Louisiana Gazette. Signed "People," it listed the grievances of the inhabitants of West Florida against the Spanish government and lamented the silence that previous popular petitions had evoked. The article particularly denounced the tyrannical system of justice of the province.²⁷ The dissatisfaction in West Florida continued through the summer, and in August Governor

²⁴Claiborne to Casa Calvo, May 8, 1805, ibid., 45-46; Claiborne to Governor Williams, May 8, 1805, ibid., 47.

²⁵Claiborne to Madison, May 10, 1805, ibid., 51-52; Claiborne to Freeman, May 13, 1805, ibid., 54.

²⁶Claiborne to Madison, May 10, 1805, ibid., 51.

²⁷Louisiana Gazette (New Orleans), May 14, 1805.

Claiborne reported to the Secretary of State that the people of the Spanish province were surprised and disappointed that negotiations had not yet resulted in the delivery of West Florida to the United States.²⁸

The apparent tranquility of West Florida was shattered on September 5, 1805, when a white-Negro band of border residents from both sides of the American-Spanish boundary seized the three Kemper brothers near Pinckneyville. The raiders carried the Kempers across the line into West Florida, where they supposedly by accident met a Spanish militia patrol to whom they turned over the captives. The patrol group then moved on to Baton Rouge, but while traveling on the Mississippi River maneuvered too near the western bank thereby giving the Kempers a chance to inform a passerby of their capture. Lieutenant William Wilson, American commandant of Pointe Coupée, intercepted the military detail and their prisoners, took them into custody, and conveyed them to Fort Adams where they were turned over to the civil authorities.²⁹ Governor Claiborne later approved of the actions of Lieutenant Wilson, since the abduction of the Kempers had taken place in Mississippi Territory.³⁰ So also

²⁸Claiborne to the Secretary of State, August 6, 1805, Carter (ed.), Orleans Territory, 489.

²⁹Cox, West Florida Controversy, 165-66.

³⁰Claiborne to William Wilson, September 8, 1805, Rowland (ed.), Claiborne Letterbooks, III, 184-85.

did the people of his territory.³¹

During the next five years, disturbances continued unabated in West Florida. Much of the trouble originated with American adventurers from Georgia and Mississippi who resented Spanish control of the lower reaches of the streams flowing into the Gulf of Mexico east of the Mississippi River. However, since none of these incidents involved residents or officials of Orleans, they were not a part of the history of the Territory of Orleans. Negotiations between the United States and Spain also continued during these years, but they resolved none of the differences between the two nations. A change in the possession of West Florida would have to await a revolution in the Spanish province itself.³²

By the summer of 1810 conditions were ripe for an independence movement in West Florida. Napoleon Bonaparte

³¹Claiborne to Dearborn, September 11, 1805, ibid., 188.

³²According to Isaac Cox, "The American Intervention in West Florida," The American Historical Review, XVII (January, 1912), 290-91, there were two causes of American intervention in West Florida--a spirit of territorial acquisition and a domestic revolt in the Spanish province itself. The American inhabitants of the Mississippi Territory resented Spanish control of the lower reaches of the rivers east of the Mississippi, and the United States State Department attempted to acquire the desired area by purchase or diplomatic bargaining. When diplomacy failed, the West Floridians took advantage of Spain's trouble at home to revolt "and thus force the American authorities to intervene, for the double purpose of preserving order in their own contiguous territories and of realizing their territorial ambition."

had begun an intensive military operation in Spain to end all resistance to his puppet regime and success seemed likely. With hundreds of thousands of French troops pouring into the Iberian peninsula, it appeared as if the last vestiges of monarchical rule would be crushed.³³ Already some of the Spanish colonial possessions had seized the opportunity to declare their independence. The possibility of such a movement in West Florida did not escape the notice of the United States government. With a view of acquiring information on the actual political situation in West Florida, Governor Claiborne, who was then visiting in Washington, wrote William Wykoff, judge of Baton Rouge Parish, to sound out the different political views of the people in the neighboring province. In Claiborne's opinion, they had three choices-- submission to France, attachment to Great Britain, and complete independence--all of which would be detrimental to their interests. Claiborne directed Wykoff, after investigating the strength of the support of each of these positions, to impress upon the people the "friendly disposition of the American Government." He suggested that the calling of a convention of delegates representative of the area as far east as the Perdido River would be the best means of obtaining

³³Geoffrey Brunn, Europe and the French Imperium, 1799-1814 (New York: Harper & Brothers, 1938), 167.

an expression of public opinion.³⁴ Four days later, the Secretary of State sent a similar commission to Wykoff ordering him to proceed to West Florida

. . . for the purpose of difussing [sic] the impression that the United States cherish the sincerest good will towards the people of the Floridas as neighbours [sic] and as having in so many respects a common interest, and that in the event of a political separation from the parent country, their incorporation into our Union would coincide with the sentiments and policy of the United States.³⁵

Before any of these instructions could reach their destinations, the people of West Florida had already launched an independence movement on their own initiative. The revolt originated in West Feliciana district where the inhabitants were generally Americans, many of whom had migrated east of the river after the cession of Louisiana to the United States. These newer immigrants had from the beginning expected their government and laws to follow them and were anxiously waiting to hear of the conquest of Spain by French arms. If this occurred, the new arrivals felt that either France or Great Britain would claim the Floridas, or the United States would have to annex them to prevent foreign occupation. In addition to the Americans or pro-

³⁴Claiborne to William Wykoff, June 14, 1810, Rowland (ed.), Claiborne's Letterbooks, V, 31-33. Later Governor Claiborne was criticized in the local newspaper for having encouraged the people of West Florida to declare their independence by this letter to Wykoff. Louisiana Gazette and New Orleans Daily Advertiser, May 6, 1811.

³⁵Secretary of State to Wykoff, June 20, 1810, Carter (ed.), Orleans Territory, 884.

Americans, there were also people loyal to Ferdinand VII who would accept British protection if ordered to do so by the Spanish junta; there were still others who fostered the interests of Bonaparte.³⁶ To resolve these political differences and also to propose reforms of the current Spanish administration, the inhabitants of West Feliciana proposed a convention of representatives from parishes in the jurisdiction of Baton Rouge. The proposed meeting was to take place at Buhler's or St. John's Plains "for the purpose of redressing the evils attending on a state which certainly may with propriety be called anarchy" and was to constitute a "committee of safety" rather than a legislative body. The announced purpose of the convention was not to declare independence, although many West Floridians favored it.³⁷ Yet the Feliciana group had already commissioned Fulwar Skipwith, former American consul-general in Paris and wealthy planter, to write a constitution for a new state.³⁸ With Spanish permission, the other parishes of West Florida held like meetings to elect delegates to a provincial convention to be held in Baton Rouge. The new Spanish governor, Don Carlos de Hault de Lassus, agreed to these meetings because there was little else he could do with the few troops at his

³⁶Louisiana Gazette and New Orleans Daily Advertiser, July 2, 1810.

³⁷Ibid., July 18, 1810.

³⁸Abernethy, South in the New Nation, 344-45.

service, and because the insurgents had pledged fidelity to Ferdinand VII while asking only for a reform of the corrupt West Florida government.³⁹

On July 25, 1810, the West Florida Convention assembled at St. John's Plains, approximately fifteen miles north of Baton Rouge. Fourteen representatives gathered at the home of Richard Duvall. Of this number, West Feliciana sent four; Baton Rouge, five; St. Helena, four; and Tangipahoa, one.⁴⁰ The first action of the delegates was the election of John Rhea as chairman, or president, and the adoption of a declaration of loyalty and attachment to the Spanish king and government. It stated:

We have considered it as the immediate object of our deliberations, to promote the safety, honor and happiness of our beloved king, Ferdinand the seventh, to guard against the enemies foreign and domestic, to punish wrongs and correct abuses dangerous to the existence and prosperity of the province, and trust that the measures that may be adopted will be received with indulgence by your excellency, and meet with your approbation and concurrence.⁴¹

³⁹Cox, West Florida Controversy, 345-46.

⁴⁰The representatives were William Barrow, John H. Johnson, John Mills, and John Rhea from Feliciana; Philip Hickey, Thomas Lilley, Manuel López, Edmund Hause, and John Morgan from Baton Rouge; Joseph Thomas, John W. Leonard, William Spiller, and Benjamin C. Williams from St. Helena; and William Cooper from Tangipahoa. Cox, West Florida Controversy, 346; Membership of the West Florida Convention, July 26, 1810, Carter (ed.), Orleans Territory, 889.

⁴¹To His Excellency Don Carlos De Hault de Lassus, Col. of the Royal Armies and Governor, Civil and Military, of the place and jurisdiction of Baton Rouge, etc., July 27, 1810, Louisiana Gazette and New Orleans Daily Advertiser, August 8, 1810; Carter (ed.), Orleans Territory, 894-95.

The convention then elected a committee to propose a plan for the redress of grievances and for the defense and safety of the province, adopted measures, which were incorporated into the address sent to de Lassus, providing that they share governmental authority with him and offering him additional salary, and adjourned until the second Monday in August. During its recess, a committee of five, composed of John H. Johnson, Thomas Lilley, John W. Leonard, Philip Hickey, and John Mills, was given authority to receive dispatches from the Spanish governor.⁴²

Although the constitution drawn up by Fulwar Skipwith was not even mentioned at this first meeting, the question of seeking the protection of the United States did arise. The delegates rejected the idea, because they did not know how such a request would be received in Washington, and because they feared that before the United States could reply the captain general of Cuba would send a military force to subdue them.⁴³ Nevertheless, according to David Holmes, governor of Mississippi Territory, the convention and a majority of the people desired a connection with the

⁴²To His Excellency Don Carlos De Hault de Lassus, Col. of the Royal Armies and Governor, Civil and Military, of the place and jurisdiction of Baton Rouge, etc., July 27, 1810, Louisiana Gazette and New Orleans Daily Advertiser, August 8, 1810; Carter (ed.), Orleans Territory, 894-95.

⁴³Governor of the Mississippi Territory to the Secretary of State, July 31, 1810, Carter (ed.), Orleans Territory, 889-90.

United States.⁴⁴

Shortly after the West Florida convention adjourned, Governor de Lassus replied to the delegates' address of loyalty that he was willing to cooperate with them in common action, but that he could not, under Spanish law, share authority with them or accept any salary from the convention.⁴⁵ On August 13, the representatives reconvened, drafted proposals for correcting existing evils, and drew up a list of grievances concerning the judiciary, militia, public lands, and revenue. They urged de Lassus to accept their recommendations immediately without seeking the approbation of his superiors.⁴⁶ A copy of the Floridians' measures reached Washington through the hands of Secretary Thomas Bolling Robertson of Orleans Territory. Robertson reported that the man from whom he had received it felt that de Lassus would not accept the convention's proposals without authorization from his superiors and that, in case of his refusal, a strong English party in the province would make

⁴⁴Governor of the Mississippi Territory to the Secretary of State, August 8, 1810, ibid., 892.

⁴⁵James S. Kendall, "Documents Concerning the West Florida Revolution, 1810," The Louisiana Historical Quarterly, XVII (April, 1934), 309-11; Cox, West Florida Controversy, 358-59.

⁴⁶"Address of the representatives of the people of Baton Rouge to Governor Charles de Hault de Lassus," August 15, 1810, Carter (ed.), Orleans Territory, 896-97; Louisiana Gazette and New Orleans Daily Advertiser, August 23, 1810.

overtures to the British government for an alliance.⁴⁷ Meanwhile, the convention continued to act as a government by suggesting the arming of the entire militia and the adoption of "an ordinance for the public security and good administration of Justice within the jurisdiction of Baton Rouge and West Florida" which was in reality the constitution which Skipwith had drafted.⁴⁸

On August 22, the delegates again convened in Baton Rouge where they received de Lassus' qualified acceptance of the constitution, until he could receive further orders from the captain general of Cuba, and drew up addresses to the inhabitants of Baton Rouge and the captain general.⁴⁹ The convention then proceeded to elect officers under the new government. They included Charles de Hault de Lassus, commander-in-chief of the militia and first judge; Robert Percy of Feliciana, Fulwar Skipwith of Baton Rouge, and Shepard Brown of St. Helena, associate justices of the Supreme Court, or counsellors of state; Bryan McDermot, Daniel Reynor, and Gilbert Leonard, civil commandants for Bayou Sarah, St. Helena, and Baton Rouge, respectively;

⁴⁷Secretary Robertson to the Secretary of State, August 26, 1810, Carter (ed.), Orleans Territory, 896.

⁴⁸Abernethy, South in the New Nation, 342.

⁴⁹James S. Kendall, "Documents Concerning the West Florida Revolution, 1810," The Louisiana Historical Quarterly, XVII (July, 1934), 474-76; Kendall, "Documents," L.H.Q., XVII (April, 1934), 312-14; Favrot, "Some of the Causes and Conditions," Publications of L.H.S., I, 44-45.

Joseph H. Johnson, sheriff; Andrew Steele, registrar of land claims; and Philemon Thomas, colonel commandant of the militia. The three supreme court justices were to share legislative, judicial, and administrative powers with de Lassus, while the civil commandants were to hold court in their respective districts.⁵⁰ Agreeing to meet again on the first Monday of November at St. John's Plains, the delegates presented their appointments to de Lassus, who approved them. They all then signed a proclamation approving the convention's work and adjourned.⁵¹

Despite his public acceptance of the new revolutionary government, de Lassus continued to govern autocratically. He also wrote to Governor Folch at Pensacola through Shepard Brown, a pro-Spanish associate justice, to inform him of what was happening and to urge him to send an armed force to bring the inhabitants under control. At the same time, he sent requests to the Captain General of Cuba, the Marquis de Someruelos, for military reinforcements. Philemon Thomas, colonel commandant of the local militia, having already become suspicious of de Lassus, had some of the Governor's letters intercepted. With this proof of de Lassus' double dealing, Thomas hurried to Baton Rouge, where he assembled a

⁵⁰Louisiana Gazette and New Orleans Daily Advertiser, September 5, 1810; for the constitution of West Florida see James S. Kendall, "Documents Concerning the West Florida Revolution, 1810," The Louisiana Historical Quarterly, XVII (January, 1934), 91-95.

⁵¹Abernethy, South in the New Nation, 349-50.

council of six members of the convention to determine on a course of action.⁵² They agreed that the fort at Baton Rouge must be taken and independence declared immediately.⁵³ The next day, September 22, President Rhea assembled the six members of the convention at St. Francisville, where they declared de Lassus deposed, ordered Colonel Thomas to take Baton Rouge, and made application to the United States for annexation. Thomas captured the fort on Sunday, September 23, with little Spanish resistance.⁵⁴

Two days after the successful attack, the members of the convention met in Baton Rouge, and on the next day issued a statement justifying their deposing de Lassus, declared their independence, and adopted a flag with a single star in a blue field as the banner of the new commonwealth of West Florida. The convention then proceeded to repeal the tax on the importation of slaves, modify the land tax, establish regular military units at Baton Rouge, declare laws previously adopted under the Spanish in force, and appoint a committee

⁵²Ibid., 350, lists Samuel Fulton, Fulwar Skipwith, John Rhea, Philip Hickey, Isaac Johnson, Larry Moore, and Gilbert Leonard as the six members who approved the attack on Baton Rouge, but the Louisiana Gazette and New Orleans Daily Advertiser, December 18, 1810, gives credit to John Rhea, John H. Johnson, Philip Hickey, John Mills, Thomas Lilley, and William Barrow.

⁵³Abernethy, South in the New Nation, 350.

⁵⁴Louisiana Gazette and New Orleans Daily Advertiser, September 27, October 6, December 18, 1810; Abernethy, South in the New Nation, 351.

to administer the state and draft a new constitution to be submitted to the convention at a later date.⁵⁵

The delegates directed President Rhea to send the declaration of independence and an account of the recent events to Governor David Holmes with a request that he transmit them to the President of the United States. They also agreed to send the same information directly to the Secretary of State. In his letters to the two American officials, Rhea stated that annexation to the United States was the chief objective of the insurgents and inquired concerning the policy of the United States on the matter. He stated that the Floridians would prefer incorporation as a separate state, but if that were impossible, would rather be annexed to Orleans than to Mississippi Territory because of similarity in laws and customs. The revolutionists, stated Rhea, wanted local supervision of public lands, amnesty for all refugees, and a loan of \$100,000 to defend Florida against the French refugees from Cuba.⁵⁶ On October 24, the West Florida convention assembled again, adopted a constitution modeled on that of the United States, set elections for November, and appointed a committee of five to administer the state in the interim. On October 28, it adjourned once more.⁵⁷

⁵⁵Louisiana Gazette and New Orleans Daily Advertiser, October 24, 1810.

⁵⁶Ibid., January 7, 1811; Abernethy, South in the New Nation, 353.

⁵⁷Cox, West Florida Controversy, 427-28.

During the revolution the United States government made every effort to keep abreast of developments in West Florida. Two American officials, Governor Holmes of Mississippi Territory and Secretary Robertson of Orleans Territory, were specifically instructed to keep Washington informed of "events very interesting to the United States."⁵⁸ Governor Holmes was also directed to keep the territorial militia ready for service in case of foreign intervention in West Florida or revolution which threatened the peace and tranquility of Mississippi.⁵⁹ Holmes asked Colonel Cushing to station two companies of regular troops near the Florida boundary in the vicinity of Pinckneyville to protect the citizens of Mississippi.⁶⁰ Later, Secretary of War Eustis directed General Wade Hampton to keep in readiness all the troops in the vicinity of Washington, Mississippi Territory, and to notify the navy to be ready to transport troops down the Mississippi River.⁶¹ By October, Secretary Robertson

⁵⁸Smith to Robertson, July 13, 1810, S.D. Territorial Papers, XI.

⁵⁹Smith to Holmes, July 21, 1810, ibid.

⁶⁰Holmes to Cushing, September 26, 1810, Letters Received by the Secretary of War, Main Series, 1801-1870 (Records of the Office of Secretary of War. File Microcopies of Records in the National Archives: No. M-221. Microfilm in possession of author), XXXV. Hereinafter cited as L.R., S.W., M.S.

⁶¹Eustis to Hampton, October 19, 1810, Letters Sent by the Secretary of War, Relating to Military Affairs, 1800-1889 (Records of the Office of Secretary of War. File Microcopies of Records in the National Archives: No. M-6. Microfilm in possession of author), IV, 452. Hereinafter cited as L.S., S.W., M.A.

reported that many refugees had fled from St. Helena⁶² to Orleans, but that many were returning home after learning the views of the revolutionary government at Baton Rouge.⁶³

Fully informed of events in West Florida, on October 27, 1810, President Madison proclaimed the territory south of Mississippi Territory and eastward to the Perdido River to be part of the United States. Since it was claimed as a part of the original Louisiana Purchase, he ordered Governor Claiborne to take possession of the area.⁶⁴ At the same time, the Secretary of War ordered General Hampton to hold in readiness his entire command either to accompany or follow Claiborne into West Florida and to be subject at all times to the civil authority.⁶⁵ Secretary of State Smith informed Governor Holmes of Claiborne's mission and of his expected arrival in Washington, Mississippi Territory. Smith instructed the Mississippi Governor to cooperate with Claiborne, but to keep the intentions of the government quiet until the

⁶²Of the Florida parishes St. Helena was the most loyal to the Spanish government, and thus was suspected by the revolutionary government.

⁶³Robertson to Smith, October 14, 1810, S.D. Territorial Papers, XI.

⁶⁴Proclamation, October 27, 1810, James D. Richardson (ed.), A Compilation of the Messages and Papers of the Presidents, 1789-1902 (10 vols.; New York: Bureau of National Literature and Art, 1903), I, 480-81.

⁶⁵Secretary of War to Wade Hampton, October 27, 1810, L.S., S.W., M.A., IV, 459.

latter's arrival.⁶⁶ On December 1, Governor Claiborne reached Natchez and conferred with Holmes. They agreed that the people of Baton Rouge would welcome American annexation, but to guard against troublemakers, prepared a military force of 250 to 300 men to follow Claiborne into West Florida. Governor Claiborne also arranged for the printing of the President's proclamation which he expected to distribute in West Florida, through advance messengers, to determine the sentiment of the people. He planned to begin his mission on December 3, 1810.⁶⁷

Meanwhile, important events were occurring in West Florida, where the President's proclamation was still unknown. On November 10, elections under the new constitution of the Republic of West Florida were held, and on the 26th the legislature met for the first time in St. Francisville. There Fulwar Skipwith was elected governor and a joint committee was appointed to prepare an attack against Mobile and Pensacola which had previously refused to join the revolution. The convention had already sent Reuben Kemper and Joseph Kennedy as its agents to the Mobile River, and on November 28, troops intended to join them began enlisting.

⁶⁶Secretary of State to the Governor of the Mississippi Territory, October 30, 1810, Carter (ed.), Orleans Territory, 901-902.

⁶⁷Claiborne to Smith, December 1, 1810, Rowland (ed.), Claiborne's Letterbooks, V, 34-35; Claiborne to Covington, December 1, 1810, ibid., 36.

A total army of 600 was projected for taking Mobile and Pensacola.⁶⁸ Early in December, the West Florida government officially authorized the military expedition against the Spanish strongholds, and a small force set out. At the same time, Skipwith, to his complete surprise, received news of President Madison's proclamation ordering Claiborne to take possession of West Florida. While denying that the United States had a legitimate claim to the province, he offered to negotiate annexation terms. Skipwith's conditions were generally unfavorable to the interests of the United States. One of them was that the American government lend West Florida money to pay for the Mobile expedition.⁶⁹

The unexpected actions of the revolutionary government forced Governor Claiborne to modify his plans for taking possession of West Florida. He still felt that the people of the province would welcome American annexation, but recognized that the governmental leaders would oppose such a move except on their own conditions.⁷⁰ To counter resistance, Claiborne ordered Colonel Leonard Covington to

⁶⁸Louisiana Gazette and New Orleans Daily Advertiser, December 3, 1810.

⁶⁹Abernethy, South in the New Nation, 356-58; Claiborne to Smith, December 7, 1810, Rowland (ed.), Claiborne's Letterbooks, V, 46-47; Stanley Clisby Arthur, The Story of the West Florida Rebellion (St. Francisville, The St. Francisville Press, 1935), 136-37.

⁷⁰Claiborne to Smith, December 2, 1810, Rowland (ed.), Claiborne's Letterbooks, V, 37-38.

increase the military force to support him to 700 or 800 with 250 setting out the next day.⁷¹ The Governor also sent two agents armed with copies of the President's proclamation to Baton Rouge and St. Francisville to sound out public opinion. To Audley L. Osborn, emissary to St. Francisville, he gave special instructions not only to learn the sentiments of the people and their probable reception of him, but also their military strength, especially at Baton Rouge, and the state of affairs in the Mobile expedition.⁷² On December 6, Claiborne left Fort Adams with an escort of thirty-five officers and men, descended the Mississippi River, and arrived at Pointe Coupée the next day. There he met Governor Holmes, Osborn, and John H. Johnson, a representative of the Florida government. Johnson carried a message from Skipwith stating the terms on which West Florida would consent to annexation to the United States. The American governor's reply was that he could not recognize Skipwith as governor nor enter into any correspondence with him. Johnson thereupon stated that Skipwith had authorized him to announce:

⁷¹Claiborne to Covington, December 2, 1810, S.D. Territorial Papers, XI; Covington to Claiborne, December 2, 1810, Rowland (ed.), Claiborne's Letterbooks, V, 41; Covington to the Secretary of War, December 1, 1810, L.R., S.W., M.S., XXXV.

⁷²Claiborne to Smith, December 5, 1810, Rowland (ed.), Claiborne's Letterbooks, V, 43-44; Claiborne to Audley L. Osborn, December 5, 1810, ibid., 44-45; Claiborne to William King, December 5, 1810, ibid., 79-80.

That he had retired to the Fort of Baton Rouge and rather than surrender the country unconditionally and without terms, he would with twenty men only, if a greater number could not be procured surround the Flag Staff and die in its defense.⁷³

Johnson, at the same time, reported that St. Francisville would welcome Claiborne. The Governor occupied the town peacefully.⁷⁴ However, reports indicated that resistance would be offered by Skipwith and his adherents in Baton Rouge who demanded to negotiate as an independent state.

Despite Skipwith's threats, on December 10, 1810, the fort at Baton Rouge was surrendered to the American authorities without resistance.⁷⁵ Claiborne agreed to treat the West Florida flag with respect and promised not to molest deserters until he learned the President's wishes on the subject, but he accepted no conditions from the revolutionists.⁷⁶ In compliance with his orders from the President,

⁷³Claiborne to Smith, December 7, 1810, ibid., 46-50.

⁷⁴The peaceful occupation of St. Francisville was largely due to Governor Holmes who met the townspeople and explained the position of the American government. Louisiana Gazette and New Orleans Daily Advertiser, December 11, 1810; Skipwith to Johnson, December 6, 1810, Rowland (ed.), Claiborne's Letterbooks, V, 50-51; Claiborne to Smith, December 7, 1810, ibid., 46-50; Governor of the Mississippi Territory to the Secretary of State, January 1, 1811, Carter (ed.), Orleans Territory, 909-14.

⁷⁵Again Governor Holmes acted as an advance agent. Governor of the Mississippi Territory to the Secretary of State, January 1, 1811, Carter (ed.), Orleans Territory, 912-13; Claiborne to Covington, December 9, 1810, L.R., S.W., M.S., XXXV; Covington to the Secretary of War, December 10, 1810, ibid.

⁷⁶Skipwith to Claiborne, December 10, 1810, James A. Padgett (ed.), "The West Florida Revolution of 1810, As Told in the Letters of John Rhea, Fulwar Skipwith, Reuben Kemper

Governor Claiborne assumed possession of the country eastward to the Perdido River not in the actual possession of a Spanish garrison where force would have to be used.⁷⁷ He then proceeded to organize volunteer militia groups and recognize justices of the peace in the newly possessed area.⁷⁸ Not included in the occupied area were Mobile, Pensacola, and outlying areas along the Gulf of Mexico.⁷⁹ American troops under Captain Edmund P. Gaines remained outside of Mobile and Colonel Cushing with gunboats lay in Mobile bay but neither had orders to take the town or fort.⁸⁰ The major disappointment of the West Floridians was the interruption of their military expedition to Mobile.⁸¹

Despite the lack of armed resistance, there was no universal approval of the American presence in West Florida.

and Others," The Louisiana Historical Quarterly, XXI (January, 1938), 149-50.

⁷⁷Louisiana Gazette and New Orleans Daily Advertiser, January 31, 1811.

⁷⁸Ibid., December 20, 1810; Claiborne to Smith, December 12, 1810, Rowland (ed.), Claiborne's Letterbooks, V, 54-55.

⁷⁹Claiborne anxiously awaited instructions from Smith to take Mobile by force since it composed a part of the territory encompassed by the President's proclamation. Claiborne to Smith, January 6, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 89-90.

⁸⁰Moniteur de la Louisiane (New Orleans), January 26, 1811.

⁸¹Louisiana Gazette and New Orleans Daily Advertiser, December 20, 1810; Claiborne to Smith, December 12, 1810, Rowland (ed.), Claiborne's Letterbooks, V, 54-55.

Adventurers, British sympathizers, and land speculators regarded it to be contrary to their personal interests.⁸² Claiborne, however, believed the inhabitants of West Florida to be genuinely pleased with their new position until late in December, when ex-Governor Skipwith presented him an address adopted by the West Florida assembly shortly after the commencement of its session. Dated December 10, the document, addressed to Skipwith, expressed extreme dissatisfaction with the conduct of the American government in taking possession of West Florida. Claiborne began to fear the development of an anti-American party led principally by land speculators whose titles were endangered by the American takeover.⁸³ He also regretted the prejudices which the revolutionists displayed against those in West Florida who did not approve of their actions, and felt that such animosity among West Floridians might lead to future dissension.⁸⁴

To expedite American possession of the Mobile area, Governor Claiborne hurried a copy of the Presidential proclamation to Colonel Richard Sparks, commanding officer at Fort Stoddart, who was to transmit it to Governor Folch.⁸⁵

⁸²Claiborne to Smith, December 17, 1810, Rowland (ed.), Claiborne's Letterbooks, V, 56-57.

⁸³Claiborne to Smith, December 27, 1810, ibid., 67-69.

⁸⁴Claiborne to Smith, January 3, 1811, ibid., 69-70.

⁸⁵Folch to Sparks, December 14, 1810, S.D. Territorial Papers, XI; Folch to Sparks, December 21, 1810, Rowland (ed.), Claiborne's Letterbooks, V, 72.

As might be expected, the Spanish Governor refused to recognize the American claim. Neither did the proclamation halt the activities of Reuben Kemper. He still planned an attack on the people of Mobile to avenge an earlier defeat he had suffered there. To counter Kemper's plans, Colonel Sparks sent Captain Gaines with a military detachment to take a position near Mobile where he could intercept Kemper's band.⁸⁶ After turning Kemper back, Gaines demanded the surrender of the town and fort from Captain Layetano Perez, post commandant. Perez forwarded the demand to Governor Folch, who refused it.⁸⁷ Later Governor Claiborne approved Sparks's measures and even authorized him to warn the Spanish authority at Mobile of Kemper's hostile intentions.⁸⁸

By this time, December, 1810, Claiborne was exercising jurisdiction as far east as the Bay of St. Louis, where he planned to establish a small military post. He immediately organized West Florida to the Perdido River as the County of Feliciana and subsequently divided it into four parishes--

⁸⁶Sparks to Claiborne, December 21, 1810, Rowland (ed.), Claiborne's Letterbooks, V, 73-75.

⁸⁷Louisiana Gazette and New Orleans Daily Advertiser, March 4, 1811; Abernethy, South in the New Nation, 361. A report was carried in the Louisiana paper on December 24, 1810 stating that Folch would surrender Mobile when claimed by American authorities. Later the same paper reported that Folch had rejected the American offer. Louisiana Gazette and New Orleans Daily Advertiser, December 24, 31, 1810.

⁸⁸Claiborne to Sparks, December 28, 1810, Rowland (ed.), Claiborne's Letterbooks, V, 76-77.

St. Helena, St. Tammany, Feliciana, and East Baton Rouge. He also commissioned several new judges, but ordered them not to hear cases until after the meeting of the next territorial legislature.⁸⁹

Considering his mission to West Florida completed, Claiborne returned to New Orleans near the end of December.⁹⁰ Early the next year, the Governor created two more parishes in West Florida--Beloxi, encompassing the land from the eastern branch of the Pearl River to the Beloxi River, and Pascagoula, including the area from the Beloxi River to Bayou Batrie.⁹¹ Three weeks later, he extended Pascagoula Parish as far eastward as the Perro or Dog River.⁹² The creation of the two new parishes was called for by the state of anarchy which existed in the region and by attempts on the part of stragglers from the West Florida convention and Kemper's group to establish control there.⁹³

⁸⁹"Proclamation," December 22, 1810, ibid., 64-65; Claiborne to Smith, December 23, 1810, ibid., 58-60; Ordinance, December 7, 1810, Acts Passed at the Second Session of the Third Legislature of the Territory of Orleans . . . (New Orleans: Thierry, 1811), 210; An Ordinance, December 22, 1810, ibid., 210-12.

⁹⁰Claiborne to the Secretary of the Treasury, December 24, 1810, Carter (ed.), Orleans Territory, 905.

⁹¹Ordinance, January 4, 1811, Acts Passed at the Second Session of the Third Legislature of the Territory of Orleans, 214.

⁹²Ordinance, January 26, 1811, ibid., 216.

⁹³Claiborne to William Flood, January 5, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 82-84; Joseph Collin's Statement, S.D. Territorial Papers, XII; George Farragout's Statement, ibid.

The territorial legislature completed the work of incorporating Feliciana into Orleans Territory. In February, it approved an act allowing the county to elect representatives to the assembly, and in April formed it into the seventh superior court district.⁹⁴ Later the same month, the legislature officially established the boundaries of the six parishes of Feliciana.⁹⁵

Having successfully occupied all of West Florida except the Mobile area, the United States government resumed negotiations with the Spanish for its possession. Early in December, Governor Folch wrote John McKee, American agent for the Choctaw Indians, that if he did not receive reinforcements by the end of the year he would surrender Mobile to the United States.⁹⁶ Encouraged by this information, the Secretary of State, with the approbation of the President, appointed General George Matthews and McKee to negotiate with Folch for the transfer of the territory.⁹⁷ The two

⁹⁴An Act Providing for the Election of Representatives from the County between the Territories of Mississippi and Orleans, and between the rivers Mississippi and Perdido, to the general assembly of the Territory of Orleans, February 5, 1811, Acts Passed at the Second Session of the Third Legislature, 2-4; An Act to establish a sixth and seventh District of the Superior Court in the Territory of Orleans, and for other purposes, April 10, 1811, ibid., 80-84.

⁹⁵An Act Establishing the Parish Boundaries in the County of Feliciana, April 24, 1811, ibid., 120-24.

⁹⁶John McKee to Eustis, December 5, 1810, S.D. Territorial Papers, XI; Folch to McKee, December 2, 1810, ibid.

⁹⁷Secretary of State to the Governor of West Florida, January 28, 1811, Carter (ed.), Orleans Territory, 922.

agents were also instructed to take the disputed area by force if it were threatened by foreign invasion, to accept East Florida if offered, and to seize it should it be endangered by foreign occupation.⁹⁸ Nothing came of these negotiations and the Spanish remained in Mobile.⁹⁹

By June, 1811, the Spanish were again interrupting American commerce on the Mobile River. The Spanish commandant at the fort of Mobile prevented a vessel loaded with military stores for Fort Stoddart from passing upriver. Governor Claiborne angrily ordered Commodore John Shaw, naval commander at New Orleans, to provide a convoy for the vessel on the Mobile River and to meet force with force. He also instructed the United States navy to patrol as far eastward as the Perdido River to enforce the ban on the importation of slaves.¹⁰⁰ To prevent any misunderstanding of his actions, Claiborne, who was visiting in Pascagoula, notified Governor Folch of the approach of the navy vessels and the

⁹⁸Secretary of State to Governor George Matthews and Colonel John McKee, January 26, 1811, Richardson (ed.), Messages and Papers of the Presidents, I, 506-507.

⁹⁹In February, 1811, Colonel Cushing and the American forces withdrew to Fort Stoddart, Folch to McKee, February 17, 1811, L.R., S.W., M.S., XXXV; Louisiana Gazette and New Orleans Daily Advertiser, May 27, 1811; Cushing to Hampton, February 3, 1811, L.R., S.W., M.S., XXXV.

¹⁰⁰Claiborne to Captain Swan, June 10, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 270; Claiborne to Shaw, June 10, 1811, ibid., 270-71; Claiborne to Monroe, June 11, 1811, ibid., 272-73; Louisiana Gazette and New Orleans Daily Advertiser, June 17, 1811.

reason therefor.¹⁰¹ He instructed Commodore Shaw to consider any attack on his ships as a sufficient reason for taking Mobile by force and waited at Pascagoula to learn the outcome of the convoy's mission.¹⁰² In July, Colonel Maxmilien Maxent, acting governor of Pensacola, met with Claiborne at Pascagoula to discuss the dispute. There Maxent agreed to allow American vessels to pass the fort at Mobile without molestation.¹⁰³ Meanwhile, Claiborne extended civil jurisdiction from the Dog River to the Perdido by appointing justices of the peace for the area. He, however, excepted the town of Mobile until he should learn the views of his Washington superiors.¹⁰⁴

On February 20, 1811, Congress approved an act enabling the Territory of Orleans to become a state.¹⁰⁵ The eastern boundary of the proposed state was set at the Iberville River, thus removing West Florida from it. Many of

¹⁰¹Claiborne to Folch, June 29, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 281-82.

¹⁰²Claiborne to Shaw, July 3, 1811, ibid., 285.

¹⁰³Claiborne to Hamilton, July 6, 1811, ibid., 289-90; Claiborne to Maxent, July 7, 1811, ibid., 291-92; Maxent to Claiborne, July 8, 1811, S.D. Territorial Papers, XII; Claiborne to Maxent, July 8, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 293; Louisiana Gazette and New Orleans Daily Advertiser, July 18, 1811.

¹⁰⁴Claiborne to Monroe, August 14, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 334.

¹⁰⁵United States Statutes at Large, II, 641-43. For a discussion of this bill see Chapter XV.

the people living east of the Iberville were disappointed,¹⁰⁶ and the inhabitants of Bayou Sarah, Thompson's Creek, and other sections of West Florida drafted a petition to Congress asking their region be added to Louisiana, where the laws and customs were similar to their own. They also claimed that if West Florida were excluded, Louisiana would lack sufficient population to justify statehood.¹⁰⁷ The inhabitants of Feliciana also appointed a special agent, John Ballinger, to represent their interests to the United States government. Ballinger presented a list of grievances to the Secretary of State which included continued occupation of part of the territory belonging to the United States (Mobile), the American announcement that West Florida was still a subject of negotiation with Spain, the exclusion of Feliciana from the proposed state of Louisiana, the submission of Spanish land claims to American law, and United States refusal to assume the debts of West Florida.¹⁰⁸ The West Floridians were quieted when, on April 14, 1812, the area east of the Mississippi River to the Pearl River was added to the new state of Louisiana. It had been a long and bitter struggle,

¹⁰⁶Louisiana Gazette and New Orleans Daily Advertiser, June 4, July 1, 1811.

¹⁰⁷Ibid., December 24, 1811.

¹⁰⁸Claiborne to Monroe, August 28, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 345-46; John Ballinger to the Secretary of State, December 20, 1811, Carter (ed.), Orleans Territory, 964-70; Inhabitants of the County of Feliciana to Ballinger, n.d., 1811, ibid., 270-71.

but American expansionism finally claimed the prize of West Florida, and the new state of Louisiana gained the best part of the acquisition.

CHAPTER XV

STATEHOOD FOR THE TERRITORY OF ORLEANS

From the commencement of American possession of Louisiana in December, 1803, the native inhabitants expressed dissatisfaction with the government provided them. Neither the first territorial government of 1804 nor the second of 1805 satisfied the Louisianians, who claimed they were guaranteed all the rights and privileges of American citizens by the treaty of cession. In 1809 the territorial legislature considered the question of statehood and drafted a petition to Congress praying for early admission into the Union. The memorial was conveyed to the Secretary of State by Governor Claiborne, who was against it. He opposed statehood for a variety of reasons among which were the unreadiness of the people for self-government and their political apathy, the diversity of the population, and especially the minority status of the Americans. Claiborne pointed out that even the territorial House of Representatives was not unanimously in support of statehood and that surely the people would not be. The Governor, however, did recommend modifications in the legislative and judicial organization

of the territory.¹ Nothing, therefore, resulted from this legislative petition.

On March 12, 1810, however, Senator William Giles of Virginia introduced a second memorial from the legislature of the Territory of Orleans praying for statehood.² It was referred to a select committee of the Senate which reported a bill enabling the people of the territory to form a constitution and state government.³ On April 27 the bill passed the Senate by a vote of fifteen to eight,⁴ and was sent to the House of Representatives, where it languished in committee until May 1, when Congress adjourned.⁵

In the next session of Congress, the inhabitants of the Territory of Orleans renewed their request for admission into the Union. On December 17, 1810, Julien Poydras, their delegate to Congress, presented the petition of the legislature to the House of Representatives.⁶ It was referred to a committee composed of Nathaniel Macon of North Carolina, Matthew Clay of Virginia, Daniel Heister of Pennsylvania, John Nicholson of New York, William Barry of Kentucky, Abijah Bigelow of Massachusetts, and Richard Winn of South

¹Claiborne to Robert Smith, May 18, 1809, Dunbar Rowland (ed.), Official Letterbooks of W. C. C. Claiborne, 1801-1816 (6 vols; Jackson: State Department of Archives and History, 1917), IV, 360-63.

²Annals of Congress, 11 Cong., 1 Sess., 596.

³Ibid., 646.

⁴Ibid., 674.

⁵Ibid., 1997.

⁶Ibid., 11 Cong., 3 Sess., 413.

Carolina.⁷ Ten days later, the committee reported a bill which was taken up by a committee of the whole on January 2, 1811.⁸ For several weeks heated debate followed concerning the expediency and constitutionality of the measure. The chief objections to the bill were the questionable boundaries stipulated for the future state and the Federalists' fear of losing their dominant position in the Union through the admittance of new states. George M. Troup of Georgia pointed out that to admit Louisiana with the Perdido River as the boundary would preclude any future negotiation of the West Florida question, as the President had pledged, while William Bibb of the same state favored statehood for Louisiana but at a later date so as not to violate the President's promise. Pleasant M. Miller of Tennessee also spoke against the bill on the grounds that it included the area to the Perdido River. William T. Barry of Kentucky responded that the bill admitting Louisiana could be modified so as to give Congress the power to change the boundary. Daniel Sheffey of Virginia, however, pointed out that once the Territory of Orleans was erected into a state with its boundaries defined, the United States government could not constitutionally cede any part of that territory without the state's consent. Thus, should

⁷Ibid., 414.

⁸Ibid., 466; Everett S. Brown, The Constitutional History of the Louisiana Purchase, 1803-1812 (Vol. X of University of California Publications in History, Berkeley: University of California, 1920), 178.

West Florida be included as part of the new state, the Federal government would not be able to recognize Spain's claim to any part of that territory by treaty should it subsequently wish to do so.⁹ The question of the eastern boundary was resolved by an amendment introduced by Sheffey limiting the proposed state to the area of the Orleans Territory, except that part lying east of the Iberville River and a line running through Lakes Maurepas and Pontchartrain. Despite opposition, the House accepted Sheffey's motion.¹⁰ Another debate flared briefly over the western boundary, still in dispute with Spain, when Timothy Pitkin of Connecticut pointed out that it could not be changed after statehood. He suggested that Louisiana be admitted into the Union on the condition that Congress have control of its boundary location.¹¹

The other objection to the Louisiana bill was that Congress did not have the constitutional right to admit new territory into the Union. Laban Wheaton and Josiah Quincy of Massachusetts both opposed the measure because of the declining importance of the original states in the Union which would result from the easy admission of new states. Quincy presented some memorable arguments involving states'

⁹Annals of Congress, 11 Cong., 3 Sess., 482-85; Brown, Constitutional History, 179-80.

¹⁰Annals of Congress, 11 Cong., 3 Sess., 513.

¹¹Ibid., 518-19; Brown, Constitutional History, 182.

rights, the nature of the Union, and the right of secession, and proposed that the bill be postponed indefinitely.¹²

The Massachusetts Representative was ably answered by George Poindexter, the delegate from the Territory of Mississippi, with arguments supporting the right of Congress to acquire new territory and the principle that treaties formed part of the supreme law of the land.¹³ Poindexter referred to article three of the treaty of cession which stated, "The inhabitants of the ceded territory shall be incorporated into the Union of the United States and admitted as soon as possible according to the principles of the federal constitution to the enjoyment of all the rights, advantages, and immunities of citizens of the United States. . . ." ¹⁴ On January 15, 1811, the long debate ended, and the House approved the enabling bill by a vote of seventy-seven to thirty-six with most of the negative votes being cast by New England Congressmen.¹⁵

The House bill was introduced into the Senate on January 16, 1811, where it was referred to a committee

¹²Annals of Congress, 11 Cong., 3 Sess., 524-42; Brown, Constitutional History, 183-84.

¹³Annals of Congress, 11 Cong., 3 Sess., 555-76; Brown, Constitutional History, 185-86.

¹⁴"Treaty for the Cession of Louisiana," Hunter Miller (ed.), Treaties and Other International Acts of the United States of America (8 vols.; Washington: Government Printing Office, 1931), II, 501.

¹⁵Annals of Congress, 11 Cong., 3 Sess., 577.

composed of Charles Tait of Georgia, James Bayard of Delaware, Chauncy Goodrich of Connecticut, Henry Clay of Kentucky, and Andrew Gregg of Pennsylvania.¹⁶ On January 25, the committee reported the bill to the Senate with several amendments. These included the setting of specific western and eastern boundaries and the dedicating of a per centum of revenue from land sales in the new state to the building of public roads and levees.¹⁷ The whole Senate also recommended that the bill be modified to limit suffrage in elections for members of the constitutional convention to white male citizens of the United States rather than simply male citizens as in the House bill.¹⁸ After discussion of the amendments of the committee's report, another attempt was made to block Senate acceptance by Senator Samuel Dana of Connecticut who offered an amendment to the enabling bill requiring the consent of every state, or a constitutional amendment, for the admission of a new member to the Union, but the measure was defeated.¹⁹ On February 7, 1811, the Senate, by a vote of twenty-two to ten, accepted the amended bill and sent it back to the House where it was considered two days later.²⁰ The House accepted the boundary amendment unanimously, but

¹⁶Ibid., 97-98.

¹⁷Ibid., 103-104.

¹⁸Ibid., 107.

¹⁹Ibid., 110; Brown, Constitutional History, 177-78.

²⁰Annals of Congress, 11 Cong., 3 Sess., 127.

rejected the inclusion of white before the electorate of the state constitutional convention.²¹ The Senate, however, stood fast, and finally the House accepted the enabling legislation on February 13, 1811.²² Three days later, President Madison signed the measure.

The enabling law of February 16, 1811, set the limits of the territory for which the inhabitants were authorized to form a constitution and state government as follows:

All that part of the territory or country ceded under the name of Louisiana, by the treaty made at Paris on the 30th day of April, 1803, between the United States and France, contained within the following limits, that is to say; beginning at the mouth of the river Sabine, thence by a line to be drawn along the middle of said river, including all the lands to the 32 deg. lat.; thence due north, to the northernmost part of the 33 deg. of N. lat.; thence along the said parallel of latitude to the river Mississippi; thence down the said river to the river Iberville; and from thence along the middle of the said river and lakes Maurepas and Pontchartrain, to the gulph [sic] of Mexico, thence bounded by the said gulph [sic] to the place of beginning, including all islands within three leagues of the coast. . . .²³

All free white male citizens of the United States at least twenty-one years of age and resident of the said

²¹Ibid., 936-37.

²²Ibid., 151; Louisiana Gazette and New Orleans Daily Advertiser, March 18, 1811.

²³An Act to enable the people of the Territory of Orleans to form a constitution and state government, and for the admission of such state into the Union, on an equal footing with the original states; and for other purposes, February 16, 1811, Acts Passed at the Second Session of the Third Legislature of the Territory of Orleans . . . (New Orleans: Thierry, 1811), 218.

territory for at least one year before the election who had paid a territorial, county, district, or parish tax and had all the other legal qualifications for electing representatives to the territorial assembly were authorized to choose representatives to the constitutional convention. The delegates were to be apportioned among the several counties, districts, and parishes by the territorial legislature but were not to exceed sixty in number. The elections were set for the third Monday in September and were to be governed in the same manner as territorial elections. The convention delegates were authorized to meet on the first Monday of November to determine first, by a majority of those elected, if it was expedient to form a state constitution and, if decided in the affirmative, they would proceed to form a constitution and state government provided the constitution adopted was republican, consistent with the constitution of the United States, included the "fundamental privileges of civil and religious liberty," secured the right of trial by jury in criminal cases and the privilege of the writ of habeas corpus and provided that the laws, records, and proceedings of the new state should be promulgated and kept in the same language as those of the United States. The inhabitants also had to give up to the United States the title to all waste or unappropriated land in the territory and were restricted in taxing such tracts of land. Finally, the constitution had to be presented to Congress and, if

approved, the new state would be admitted into the Union "upon the same footing with the original states."²⁴

Throughout the long Congressional debates the inhabitants of the Territory of Orleans knew little of the fate of their application for statehood. For several months even Governor Claiborne was uninformed of what was happening in Washington. The reports of the progress of the measure through Congress in the local newspapers were fragmentary. In January, 1811, the Louisiana Gazette and New Orleans Daily Advertiser announced that the petition introduced by Julien Poydras was referred to a select committee, and in March it reported that the House had accepted all but one of the Senate's amendments to the enabling bill.²⁵ When, on April 9, 1811, the Louisiana Gazette printed the approved bill verbatim the people learned for the first time that the bill had passed.²⁶ Even though the Governor still had received no official notification of its passage from his superiors, he realized the need for immediate action. The legislature was still in session waiting to apportion the members of the constitutional convention among the counties and to set the mode of election, but some of the legislators were anxious

²⁴Ibid., 218-26; Francois-Xavier Martin, The History of Louisiana From the Earliest Period (2nd ed.; New Orleans: Pelican Publishing Company, 1963), 350-51.

²⁵Louisiana Gazette and New Orleans Daily Advertiser, January 26, March 12, 1811.

²⁶Ibid., April 9, 1811.

to return home after the extremely long session.²⁷ It was imperative that the legislature prepare for the elections before adjourning. It was also important that it act quickly to silence the voices of opposition to statehood which were already beginning to be heard.²⁸

On April 10, 1811, Claiborne informed the legislature of the passage of the enabling law and urged immediate action in carrying out its terms.²⁹ Accordingly, the legislature first apportioned the representation in the constitutional convention. It set the total number of delegates at forty-five and apportioned them among the counties as follows: Orleans, twelve; German Coast, three; Acadia, four; LaFourche, four; Iberville, three; Atakapas, five; Opelousas, four; Pointe Coupée, two; Rapides, three; Concordia, two; Ouachita, one; and Natchitoches, two. The legislature also set the voting qualifications, the day of the elections, and the date for opening the convention in pursuance of the enabling act. It likewise fixed the compensation to be paid the delegates and arranged for a suitable meeting place in New

²⁷Claiborne to the Secretary of State, April 9, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 207-208; Claiborne to Monroe, May 31, 1811, ibid., 258.

²⁸Claiborne to Cesar Rodney, May 14, 1811, ibid., 241.

²⁹Claiborne to Monroe, June 7, 1811, ibid., 268.

Orleans for the convention.³⁰ On May 30, 1811, Claiborne issued a proclamation calling for the elections to be held September 3, the day set by the legislature.³¹ The Governor still had no official authorization for his actions. Although James Monroe had written him of the passage of the enabling law on May 9, Claiborne did not receive the letter until early in June.³²

Governor Claiborne was of the opinion that there would be opposition in the convention to the adoption of a constitution, but that ultimately a majority of the delegates would deem it expedient to form a state government.³³ Judging from the editorials in the newspapers which appeared during the summer of 1811, the people of the territory were favorable to the writing of a constitution, but were also intent on electing well qualified men to the convention who could draft a lasting document rather than persons who were seeking public acclaim and popularity, or were motivated by

³⁰An Act Providing for the election of Representatives to form a Convention and for other purposes, April 24, 1811, Acts of the Second Session of the Third Legislature of the Territory of Orleans, 124-30; Louisiana Gazette and New Orleans Daily Advertiser, April 17, 18, 1811.

³¹"A Proclamation," May 30, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 261-62; Louisiana Gazette and New Orleans Daily Advertiser, June 4, 1811.

³²Claiborne to Monroe, June 7, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 268.

³³Claiborne to Albert Gallatin, June 7, 1811, ibid., 267.

foreign interests.³⁴ The newspaper pointed out that ethnic origins and party preferences were not important in choosing delegates, rather knowledge of a general and legal nature were requisite.³⁵ Several editorials were directed against those who opposed forming a state immediately, because they would lose their current offices or because they wanted West Florida included in the new state,³⁶ and others were critical of Governor Claiborne's administration, even going so far as to say that he would oppose statehood in order to retain his position.³⁷

The elections for members of the constitutional convention were held on September 3, 1811,³⁸ and on November 4,

³⁴Louisiana Gazette and New Orleans Daily Advertiser, May 10, June 19, 1811.

³⁵Ibid., June 21, August 1, 6, 1811.

³⁶Ibid., July 12, 14, 1811.

³⁷Ibid., July 12, 24, September 6, 1811. By this time Governor Claiborne favored the formation of a state government, Claiborne to the Secretary of the Treasury, August 19, 1811, Clarence E. Carter (ed.), Orleans Territory, 1803-1812 (Volume IX of Territorial Papers of the United States, Washington: Government Printing Office, 1940), 944-45; Claiborne to Poydras, September 2, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 350-51.

³⁸Lillie Richardson, "The Admission of Louisiana into the Union," The Louisiana Historical Quarterly, I (April, 1918), 348. The members of the convention as listed by the Louisiana Gazette and New Orleans Daily Advertiser, November 15, 1811, were: Orleans: J. Villere, T[homas] Urquhart, S[amuel] Winter, J. Livaudais, D[enis] DeLaronde, S. Henderson, M. Guichard, J[ean] Blanque, J[ohn] Watkins, J. B. Dorgenois, [Joseph Deville] Bellechasse, B[ernard] Marigny; German Coast: James Brown, Labranch, J[ean] N[oel] Destréhan; Acadia: [Michael] Cantrelle, [Genesi] Roussin, [Louis] Raynaud, [J. B.] Armant; LaFourche: H[enry] S.

the convention met in a room in Tremolet's Coffee House in New Orleans. They elected LeBreton Dorgenois temporary president and adjourned until the third Monday in November because of an epidemic of yellow fever in the city.³⁹ On November 18, the convention reconvened and elected Julien Poydras president over John Watkins, the other nominee. Eligius Fromentin was elected secretary.⁴⁰

The first question considered by the delegates was whether the convention thought it expedient to form a state government under the terms offered by Congress. A resolution favoring statehood under the conditions of the enabling law was introduced by John Watkins and supported by Julien Poydras, Joseph De Ville Bellechasse, Bernard Marigny, and LeBreton Dorgenois. For two days delegates opposing Watkins' resolution presented their arguments to the convention. Led by Jean Noel Destréhan and Alexander Porter, the opposition spoke against certain terms of the enabling act, rather than

Thibodeaux, N. Mezzain, B[ela] Hubbard, A[ndrew] Goforth; Atakapas: H[enry] H. Johnston, A[lexander] Porter, Olivier, Jr., [Louis] DeBlanc, Sr., [W. A.] Maquille; Opelousas: A[llan] B. Magruder, S. D. Sutton, John Thompson, Orego; Concordia: James Dunlap, D. B. Morgan; Rapides: T. F. Oliver, Robert Wall, Levi Wells; Pointe Coupée: J[ulien] Poydras, S. Hebier [Hiriart]; Iberville: A. Ebert, Wm. Wikoff, Vol. Allen; Natchitoches: P[lacide] Bossier, M[anuel] Prudomme; Ouachita: [Henry] Bry.

³⁹Moniteur de la Louisiane (New Orleans), November 5, 1811; Louisiana Gazette and New Orleans Daily Advertiser, November 5, 1811.

⁴⁰Louisiana Gazette and New Orleans Daily Advertiser, November 19, 1811; Moniteur de la Louisiane, November 19, 21, 1811.

statehood itself. They attacked the limits of the new state as stipulated in the enabling law, denouncing the separation of the proposed state from Upper Louisiana and the elimination of the area to the Perdido River. They objected to the provision stating "the laws which such state may pass shall be promulgated, and its records of every description shall be preserved, and its judicial and legislative written proceedings conducted in the language in which the laws and the judicial and legislative written proceedings of the U. States are now published and conducted. . . ." By this provision, the opponents declared, the Louisianians were asked to renounce the French language. They attacked the clause requiring the people to "forever disclaim all right or title to the waste or unappropriated lands lying within the territory; and that the same shall be and remain at the sole and entire disposition of the United States. . . ." The opposition particularly dwelt on the serious inconvenience which the land provision would cause residents who used public lands for grazing their cattle and as a source of timber. Finally the opponents argued that the people were uneducated in the "principles of freedom" as evidenced by the political apathy in the recent convention elections.⁴¹

⁴¹Louisiana Gazette and New Orleans Daily Advertiser, November 19, 21, 22, 1811; Moniteur de la Louisiane, November 19, 21, 23, 1811; Charles Gayarré, History of Louisiana (4 vols., 4th ed.; New Orleans: Pelican Publishing Company, 1965), IV, 270-71.

On November 21, at three o'clock in the afternoon, a vote was taken on the resolution to form a constitution and a state government with thirty-five members voting for and seven against. The negative votes were cast by Jean Noel Destréhan, Henry S. Thibodeaux, Bela Hubbard, Andrew Goforth, James Dunlap, David B. Morgan, and Alexander Porter.⁴² Of these only one, Destréhan, was a Creole, while the other six were native Americans. Six of the negative votes also came from northern or western counties--three from LaFourche, one from Atakapas, and two from Concordia--where there was much public opposition to Congress assuming possession of all vacant lands, especially the cypress swamps back of the plantations fronting the rivers.

Having voted for statehood, the convention then unanimously resolved to assent to the Constitution of the United States, as required by the enabling law, and appointed a seven-man committee consisting of Allan B. Magruder, James Brown, Jean Blanque, Henry Bry, Destréhan, Henry H. Johnston, and Michael Cantrelle, to draft a constitution.⁴³ Destréhan then presented a resolution proposing the drafting of a

⁴²Claiborne to the Secretary of the Treasury, November 21, 1811, Carter (ed.), Orleans Territory, 957; Louisiana Gazette and New Orleans Daily Advertiser, November 22, 1811; Moniteur de la Louisiane, November 23, 1811; Gayarré, History of Louisiana, IV, 272.

⁴³Louisiana Gazette and New Orleans Daily Advertiser, November 23, 1811; Moniteur de la Louisiane, November 23, 1811; Gayarré, History of Louisiana, IV, 272.

memorial to Congress requesting that West Florida to the Perdido River be incorporated into the new state. The resolution was approved by a large majority and submitted to the same committee that was to draft a constitution. The convention then adjourned for a week to give the committee time to draw up the constitution.⁴⁴

On November 29 the committee presented to the convention a constitution modeled on that of the state of Kentucky and containing the principles of separation and balance of powers.⁴⁵ The convention ordered the document translated into French and published for the purpose of discussion and then adjourned. The recess lasted ten days because of the delay in printing the constitution and also to give the delegates time to study it.⁴⁶ Upon reconvening on December 9, the convention took up the tedious task of discussing the constitution "section by section and article by article."⁴⁷ One of the first agreements reached was to retain the name Louisiana for the state rather than Lower Louisiana as

⁴⁴Louisiana Gazette and New Orleans Daily Advertiser, November 23, 1811.

⁴⁵Claiborne to Monroe, November 29, 1811, Rowland (ed.), Claiborne's Letterbooks, V, 391-92; Louisiana Gazette and New Orleans Daily Advertiser, November 30, 1811.

⁴⁶Louisiana Gazette and New Orleans Daily Advertiser, November 30, 1811; Moniteur de la Louisiane, December 5, 1811.

⁴⁷Louisiana Gazette and New Orleans Daily Advertiser, December 10, 1811.

proposed by the committee.⁴⁸ The debate on the various parts of the constitution was serious, but for the most part not heated. Only on the question of representation in the Senate was there violent disagreement. The convention, acting as a committee of the whole, adopted a provision calling for one senator from each county and one from the city of New Orleans, making a total of thirteen. The spokesman of the New Orleans delegation, Jean Blanque, "declared that the city and county of Orleans were unjustly and unfairly represented." When this provision was adopted, he and most of his fellow delegates from New Orleans walked out of the convention but later returned, after gaining more representation.⁴⁹ On January 22, 1812, the convention unanimously adopted the completed constitution for the state of Louisiana.⁵⁰ The following day it approved a petition to Congress asking for the annexation of Florida to Louisiana.⁵¹ On January 24, the convention elected two delegates, Eligius Fromentin and Allan B. Magruder, to convey the constitution to Congress.⁵²

⁴⁸Ibid.

⁴⁹Ibid., January 8, 1812; Moniteur de la Louisiane, January 16, 1812.

⁵⁰Louisiana Gazette and New Orleans Daily Advertiser, January 23, 1812; Moniteur de la Louisiane, January 25, 1812.

⁵¹Moniteur de la Louisiane, January 25, 1812; Petition to Congress by the Territorial Convention, January 23, 1812, Carter (ed.), Orleans Territory, 990-92.

⁵²Louisiana Gazette and New Orleans Daily Advertiser, January 25, 1812.

The delegates then signed the constitution and adjourned sine die on January 28, 1812.⁵³

On March 3, 1812, President Madison presented the constitution of Louisiana to the Senate and House of Representatives for their consideration.⁵⁴ The House immediately referred it to a committee composed of John Dawson of Virginia, Nathaniel Macon of North Carolina, George M. Troup of Georgia, Richard Johnson of Kentucky, William Findley of Pennsylvania, Abijah Bigelow of Massachusetts, and Elisha Potter of Rhode Island.⁵⁵ On March 16, the committee reported a bill providing for the admission of Louisiana into the Union which was referred to a committee of the whole house.⁵⁶ Two days later, George Poindexter, territorial delegate from Mississippi, proposed an amendment to extend the eastern boundary of the state of Louisiana to the Pearl River as soon as the consent of the state could be acquired, and provided that the title of the United States to the added area remained subject to future negotiation. The motion passed,⁵⁷ but not without much discussion⁵⁸ and an

⁵³Moniteur de la Louisiane, January 30, 1812.

⁵⁴James D. Richardson (ed.), A Compilation of the Messages and Papers of the Presidents, 1789-1902 (10 vols.; New York: Bureau of National Literature and Art, 1903), I, 498.

⁵⁵Annals of Congress, 12 Cong., 1 Sess., 1156.

⁵⁶Ibid., 1210.

⁵⁷Ibid., 1216-17.

⁵⁸Ibid., 1218-25.

amendment providing that the people of the annexed Florida area "before the election of Senators and a Representative to the Congress of the United States, to be invested with, and enjoy equal rights of representation and equal privileges in every respect, with the people of the residue of the said State."⁵⁹ On March 20, 1812, the House of Representatives passed the bill for the admission of Louisiana into the Union by a vote of seventy-nine to twenty-three. The negative vote was both partisan and sectional. Seventeen of them were cast by Federalist Congressmen from New England, while the three negative Southern votes were also cast by Federalists. The other three votes came from Republicans in New England and the Middle States.⁶⁰

The same day, the House sent a message to the Senate notifying it of the passage of the measure. The Senate immediately referred it to a committee of James Bayard of Delaware, William Crawford and William Bibb of Georgia, George W. Campbell of Tennessee, and James Lloyd of Massachusetts.⁶¹ On April 2 the Senate notified the House that the bill, with amendments, including one rejecting the annexation of West Florida to the new state, had passed, and

⁵⁹Ibid., 1225.

⁶⁰Ibid., 1226; Journal of the House of Representatives of the United States (Washington: Gales and Seaton, 1811), VIII, 519-20.

⁶¹Annals of Congress, 12 Cong., 1 Sess., 176.

four days later the House accepted the amended bill.⁶² On April 8, 1812, President Madison signed the "act for the admission of the State of Louisiana into the Union, and to extend the laws of the United States to the said state."⁶³

Although the Senate was responsible for the removal of West Florida from the new state, on April 8, it approved a bill making the area from the Mississippi River to the Pearl River part of Louisiana and sent it to the House of Representatives, where it was accepted on April 10. Four days later, President Madison signed the measure.⁶⁴ According to the statehood bill, Louisiana was to be admitted formally into the United States on April 30, 1812, the ninth anniversary of the cession treaty. On that day the Territory of Orleans ceased to exist.

⁶²Ibid., 186, 1254-55.

⁶³Ibid., 2264-65.

⁶⁴Richardson, "The Admission of Louisiana," L.H.Q., I, 352.

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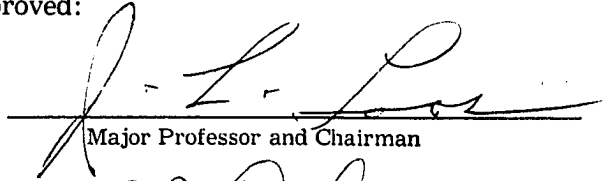
EXAMINATION AND THESIS REPORT


Candidate: Marietta Marie LeBreton

Major Field: History

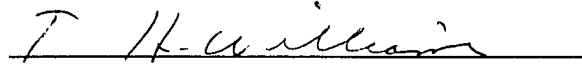

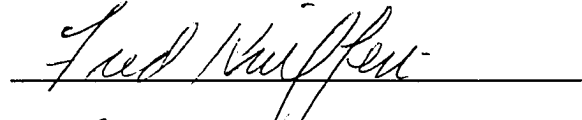
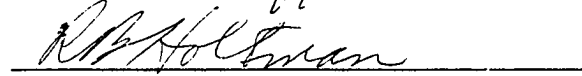
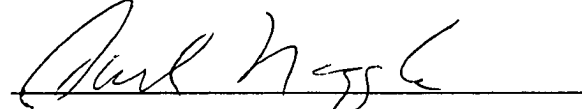
Title of Thesis: A HISTORY OF THE TERRITORY OF ORLEANS, 1803-1812

Approved:


Major Professor and Chairman


Dean of the Graduate School

EXAMINING COMMITTEE:

Date of Examination:

October 15, 1968